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1970 EDITION

SUPPLEMENT V

CONTAINING THE GENERAL AND PERMANENT LAWS OF
THE UNITED STATES ENACTED DURING THE
92D AND 93D CONGRESSES AND
94TH CONGRESS, FIRST SESSION

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JANUARY 21, 1971 TO JANUARY 18, 1976

VOLUME THREE

TITLE 42—THE PUBLIC HEALTH AND WELFARE
TO
TITLE 50—WAR AND NATIONAL DEFENSE

TABLES AND POPULAR NAMES

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*This title has been enacted as law.
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PREFACE

This fifth supplement to the 1970 edition of the United States Code has been prepared and published pursuant to section 285b of title 2 of the Code. It contains the additions to and changes in the general and permanent laws of the United States enacted during the Ninety-second and Ninety-third Congresses, and the Ninety-fourth Congress, First Session. This supplement together with the 1970 edition establishes prima facie those laws in effect on January 18, 1976, except that titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44, having been enacted into law, establish legal evidence of the law contained in those titles.

In addition to the general and permanent laws found herein, this supplement includes the Bankruptcy Rules and Official Bankruptcy Forms, set out in the Appendix to Title 11; the Rules of Procedure of the Judicial Panel of Multi-district Litigation, set out following section 1407 of Title 28; the amendments to the Federal Rules of Criminal Procedure, effective December 1, 1975; the Federal Rules of Evidence, effective July 1, 1975, set out in the Appendix to Title 28; and the Rules of United States Court of Customs and Patent Appeals, set out in the Appendix to Title 35. These rules are incorporated into the Code to enable the user to locate in one convenient place not only the statutory enactments but also the latest procedural developments in certain specialized areas.

Increased interest in the affairs of the District of Columbia is also evident by new reference material first set out in the third supplement. Two new Tables, Tables III–A and III–B, have been added as aids in determining the relationship between provisions of the United States Code and the District of Columbia Code.

This supplement continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. These notes have proved to be useful to the Congress, the bench and bar, and the public.

This supplement has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the several sections of the Government Printing Office.

Carl Albert

Speaker of the House of Representatives

JANUARY 18, 1976.

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289*l*–3. Institutional Review Boards; ethics guidance program [New].
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300p–3. Authorization of appropriations.

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300q. Loan and loan guarantee authority.
(a) Loan authority for payment of Federal share of approved projects; duration.
(b) Loan guarantee authority for payment of principal and interest on loans for approved projects; duration; payments for reduction of interest rate.
(c) Limitation on cumulative total of principal of outstanding loans.
(d) Administrative assistance of Department of Housing and Urban Development.
300q–1. Allocation among States of total amount of principal; criteria; availability of unobligated amounts; reallotment.
300q–2. General provisions.
(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability.
(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States.
(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds.
(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions.
(e) Transfers to and additional capitalization of loan and loan guarantee fund.

PART D.—PROJECT GRANTS

Sec.
300r. Grants for construction or modernization projects.
(a) Authority; projects subject to grants.
(b) Criteria for approval of applications.
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(a) Filing of financial statement with appropriate State Agency; form and contents.
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300s–5. Availability of technical and other nonfinancial assistance to eligible applicants.

PART F.—AREA HEALTH SERVICES DEVELOPMENT FUNDS

300t. Development grants for health systems agencies.
(a) Eligible recipients; purpose of grants.
(b) Determination of amounts; maximum amounts.
(c) Applications; submission and approval as prerequisite; form and contents.
(d) Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 300a–7, 1320a–1, 6081 of this title; title 18 sections 3651, 4203; title 20 section 1135b–2.

SUBCHAPTER I.—ADMINISTRATION

§ 201. Definitions.

When used in this chapter—

* * * * *

(f) The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that (1) as used in section 264(d) of this title such term means a State or the District of Columbia, and (2) as used in subchapter XII of this chapter such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands;

* * * * *

(As amended Dec. 16, 1974, Pub. L. 93–523, § 2(b), 88 Stat. 1693.)

AMENDMENTS

1974—Subsec. (f). Pub. L. 93–523 designated existing provisions as cl. (1) and added cl. (2).

REPEALS

Section 1113 of act July 1, 1944 was renumbered 1213 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered 1313 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

SHORT TITLE

Section 1 of act July 1, 1944, as amended by acts Aug. 13, 1946, ch. 958, § 4, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(a), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, § 4(a), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, § 3(a), 79 Stat. 930; Dec. 24, 1970, Pub. L. 91–572, § 6(a), 84 Stat. 1506; May 16, 1972, Pub. L. 92–294, § 3(a), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93–154, § 2(b)(1), 87 Stat. 604; Dec. 29, 1973, Pub. L. 93–222, § 7(a), 87 Stat. 936, provided that: "This Act [this chapter] may be cited as the 'Public Health Service Act'."

AVAILABILITY OF APPROPRIATIONS

Pub. L. 91–296, title VI, § 601, June 30, 1970, 84 Stat. 353, as amended Pub. L. 93–45, title IV, § 401(a), June 18, 1973, 87 Stat. 95; Pub. L. 93–352, title I, § 113, July 23, 1974, 88 Stat. 360, provided that: "Notwithstanding any other provision of law, unless enacted after the enactment of this Act [June 30, 1970] expressly in limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) [this chapter] or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88–164, as amended) [sections 2661 et seq. of this title] shall remain available for obligation and expenditure until the end of such fiscal year."

SAVINGS CLAUSE

Section 1114 of act July 1, 1944 was renumbered 1214 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137; renumbered 1314 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

EXISTING POSITIONS, PROCEDURES, REGULATIONS, FUNDS, APPROPRIATIONS, AND PROPERTY

Sections 1101 to 1103 of act July 1, 1944 were renumbered 1201 to 1203 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137; renumbered 1301 to 1303 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

Section 1104 of act July 1, 1944 was renumbered 1204 by Pub. L. 92–294, § 3(b), May 16, 1927, 86 Stat. 137; renumbered 1304 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title; title 18 sections 3651, 4203.

§ 210. Pay and allowances.

* * * * * *

(f) Allowances included in fellowships.

Individuals appointed under section 209 (g) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

* * * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(a), 85 Stat. 463.)

CODIFICATION

"Section 209(g) of this title" was substituted for "section 209(f) of this title" to conform to the Congressional

intent manifested in Pub. L. 92–157, § 301(a), which called for substitution of "subsection (g)" for "section 209 (f)".

AMENDMENTS

1971—Subsec. (f). Pub. L. 92–157 substituted "section 209(g) of this title" for "section 209(f) of this title". See Codification note.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 217a, 242k, 263f, 289 of this title.

§ 211a. Repealed. Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

Section, act July 1, 1944, ch. 373, title XIII, § 1311, formerly title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 811, by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, renumbered title IX, § 911, by Pub. L. 85–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, renumbered title X, § 1011, by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, renumbered title XI, § 1111 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, renumbered title XII, § 1211 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered title XIII, § 1311, by Pub. L. 93–154, §2(b)(2), Nov. 16, 1973, 87 Stat. 604, provided for the appointment to higher grades of Public Health Service officers for mental health and hospital construction activities.

§ 212a. Repealed. Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

Section, act July 1, 1944, ch. 373, title XIII, § 1312, formerly title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 812, by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, renumbered title IX, § 912, by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, renumbered title X, § 1012, by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, renumbered title XI, § 1112 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, renumbered title XII, § 1212 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered title XIII, § 1312, by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, provided for the retirement of certain officers of the Reserve Corps of the Public Health Service for disability.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee.

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of Title 10:

* * * * *

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

* * * * *

(As amended Sept. 21, 1972, Pub. L. 92–425, § 5, 86 Stat. 713.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–425 substituted "Retired Serviceman's Family Protection Plan; Survivor Benefit Plan" for "Annuities Based on Retired or Retainer Pay" in cl. (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210 of this title.

§ 215. Detail of personnel to governmental departments, States and subdivisions, and certain institutions; payment of salaries and allowances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2004b of this title; title 15 section 2079.

§ 217a. Advisory councils or committees.

TERMINATION OF ADVISORY COMMITTEES; REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE TO CONGRESSIONAL COMMITTEES RELATING TO TERMINATION

Pub. L. 93–641, § 6, Jan. 4, 1975, 88 Stat. 2275, provided that:

"(a) An advisory committee established by or pursuant to the Public Health Service Act [section 201 et seq. of this title] the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [section 2661 et seq. of this title], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [section 4551 et seq. of this title] shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act [Jan. 4, 1975].

"(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of the Act [Jan. 4, 1975], to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and (2) his recommendations respecting the termination of each such advisory committee."

TERMINATION OF ADVISORY COUNCILS AND COMMITTEES

Advisory Councils and Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council or committee established by the President or an officer of the Federal Government, such council or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 218. National Advisory Councils; composition; qualifications; appointment and tenure; duties.

(a) The National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of psychiatric disorders, alcohol abuse and alcoholism, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four

years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of the members (other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism) first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment; and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after December 31, 1970, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils or committees established under this chapter on mental health, alcohol abuse and alcoholism, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

* * * * *

(e)(1) The National Advisory Council on Drug Abuse shall consist of the Secretary, who shall be Chairman, the chief medical officer of the Veterans' Administration or his representative, and a medical officer designated by the Secretary of Defense, who shall be ex officio members. In addition, the Council shall be composed of twelve members appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The appointed members of the Council shall represent a broad range of interests, disciplines, and expertise in the drug area and shall be selected from outstanding professionals and paraprofessionals in the fields of medicine, education, science, the social sciences, and other related disciplines, who have been active in the areas of drug abuse prevention, treatment, rehabilitation, training, or research.

(2) The Council shall advise, consult with, and make recommendations to, the Secretary

(A) concerning matters relating to the activities and functions of the Secretary in the field of drug abuse, including, but not limited to, the development of new programs and priorities, the efficient administration of programs, and the supplying of needed scientific and statistical data and program information to professionals, paraprofessionals, and the general public; and

(B) concerning policies and priorities respecting grants and contracts in the field of drug abuse.

(f)(1) There shall be established a National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research (hereinafter in this subsection referred to as the "Council") which shall consist of the Secretary who shall be Chairman and not less than seven nor more than fifteen other members who shall be appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The Secretary shall select members of the Council from individuals distinguished in the fields of medicine, law, ethics, theology, the biological, physical, behavioral and social sciences, philosophy, humanities, health administration, government, and public affairs; but three (and not more than three) of the members of the Council shall be individuals who are or who have been engaged in biomedical or behavioral research involving human subjects. No individual who was appointed to be a member of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established under title II of the National Research Act) may be appointed to be a member of the Council. The appointed members of the Council shall have terms of office of four years, except that for the purpose of staggering the expiration of the terms of office of the Council members, the Secretary shall, at the time of appointment, designate a term of office of less than four years for members first appointed to the Council.

(2) The Council shall—

(A) advise, consult with, and make recommendations to, the Secretary concerning all matters pertaining to the protection of human subjects of biomedical and behavioral research;

(B) review policies, regulations, and other requirements of the Secretary governing such research to determine the extent to which such policies, regulations, and requirements require and are effective in requiring observance in such research of the basic ethical principles which should underlie the conduct of such research and, to the extent such policies, regulations, or requirements do not require or are not effective in requiring observance of such principles, make recommendations to the Secretary respecting appropriate revision of such policies, regulations, or requirements; and

(C) review periodically changes in the scope, purpose, and types of biomedical and behavioral research being conducted and the impact such changes have on the policies, regulations, and other requirements of the Secretary for the protection of human subjects of such research.

(3) The Council may disseminate to the public such information, recommendations, and other matters relating to its functions as it deems appropriate.

(4) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(g)(1) Within 120 days of July 29, 1975, the Secretary shall appoint and organize a National Ad-

visory Council on Migrant Health (hereinafter in this subsection referred to as the "Council") which shall advise, consult with, and make recommendations to, the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 247d of this title.

(2) The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 247d of this title. Of such twelve members who are members of such governing boards, at least nine shall be chosen from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(3) Each member of the Council shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of the members first taking office after July 29, 1975, shall expire as follows: four shall expire four years after such date, four shall expire three years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

(4) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council. (As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(b), 85 Stat. 463; Dec. 23, 1971, Pub. L. 92–218, § 6(a)(1), 85 Stat. 785; Mar. 21, 1972, Pub. L. 92–255, title V, § 502(a), 86 Stat. 85; Sept. 19, 1972, Pub. L. 92–423, § 7(a), 86 Stat. 687; July 12, 1974, Pub. L. 93–348, title II, § 211(a), 88 Stat. 351; July 29, 1975, Pub. L. 94–63, title IV, § 401(b), 89 Stat. 341.)

REFERENCES IN TEXT

Provisions respecting National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established under title II of the National Research Act), referred to in subsec. (f)(1), are set out as a note under section 289*l*–1 of this title.

Federal Advisory Committee Act, referred to in subsecs. (f)(4), (g)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (g). Pub. L. 94–63 added subsec. (g).

1974—Subsec. (f). Pub. L. 93–348 added subsec. (f).

1972—Subsec. (a) Pub. L. 92–423, § 7(a)(1), (2), struck out "the National Advisory Heart Council," following "the National Advisory Council on Alcohol Abuse and Alcoholism" in two instances and "heart diseases," following "alcohol abuse and alcoholism,", respectively.

Subsec. (b). Pub. L. 92–423, § 7(a)(2), struck out "heart," following "alcohol abuse and alcoholism,".

Subsec. (e). Pub. L. 92–255 added subsec. (e).

1971—Subsec. (a). Pub. L. 92–218, § 6(a)(1)(A), (B), excluded reference to the National Advisory Cancer Council preceding the National Advisory Mental Health Council in two instances and struck out the word "cancer," preceding "psychiatric disorders."

Pub. L. 92–157 substituted "National Advisory Council on Alcohol Abuse and Alcoholism" for "National Advisory Council on Alcoholic Abuse and Alcoholism" in the second sentence.

Subsec. (b). Pub. L. 92–218, § 6(a)(1)(B), struck out the word "cancer," preceding "mental health" in the listing of various diseases.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 211(b) of Pub. L. 93–348 provided that: "The amendment made by subsection (a) [enacting subsec. (f) of this section] shall take effect July 1, 1976."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287f, 289, 292b, 2689r, 3511 of this title.

§ 219. Acceptance and disposition of gifts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287g, 287h of this title.

§ 222. Care of Service patients at Saint Elizabeths Hospital.

SAINT ELIZABETH'S HOSPITAL PATIENTS IN SERVICE HOSPITALS

Section 1108 of act July 1, 1944 was renumbered 1208 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137; renumbered 1308 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 229. Annual report of Surgeon General.

AGENCY REPORTING REQUIREMENTS; REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE TO CONGRESSIONAL COMMITTEES RELATING TO REQUIREMENTS, TERMINATION, ETC.

Pub. L. 93–641, § 7, Jan. 4, 1975, 88 Stat. 2275, provided that: "The Secretary of Health, Education, and Welfare shall report, within one year of the date of the enactment of this Act [Jan. 4, 1975] to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the identity of each report required to be made by the Secretary under the Public Health Service Act [section 201 et seq. of this title], the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [section 2661 et seq. of this title], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [section 4551 et seq. of this title] to the Congress (or any committee thereof), (2) the provision of such Acts which requires each such report, (3) the purpose of each such report, and (4) the due date for each such report. The report of the Secretary under this section may include such recommendations as he considers appropriate for termination or consolidation of any such reporting requirements."

§ 233. Civil actions or proceedings against commissioned officers or employees.

Section 223 of act July 1, 1944, ch. 373, title II, as added Dec. 31, 1970, Pub. L. 91–623, § 4, 84 Stat. 1870, was renumbered § 224 by Pub. L. 92–157, title III, § 301(c), Nov. 18, 1971, 85 Stat. 463.

§ 234. Public Health and National Health Service Corps Scholarship Training Program.

(a) Establishment; statement of purpose.

The Secretary shall establish the Public Health and National Health Service Corps Scholarship Training Program (hereinafter in this section referred to as the "Program") to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Service.

(b) Criteria for acceptance and participation of applicants.

To be eligible for acceptance and continued participation in the Program, each applicant must—

(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

(2) pursue an approved course of study, and maintain an acceptance level of academic standing, leading to a degree in medicine, dentistry, or other health-related specialty, as determined by the Secretary;

(3) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be selected for civilian service in the National Health Service Corps; and

(4) agree in writing to serve, as prescribed by subsection (e) of this section, in the Commissioned Corps of the Service or as a civilian member of the National Health Service Corps.

(c) Duration of scholarships; amount of payments.

Each participant in the Program will be authorized a scholarship for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The scholarship shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

(d) Contracting authority of Secretary with accredited educational institution for payment of tuition, etc.; reimbursement of participants in lieu of contract with educational institution.

The Secretary may contract with an accredited educational instiution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in the Program. If necessary, persons participating in the Program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

(e) Active duty obligations of participants; duration; deferment; commencement; credits.

A person participating in the Program shall be obligated to serve on active duty as a commissioned officer in the Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under the Program. At least one-half of the period of service required by the preceding sentence must be spent providing health care and services (1) in an area designated under section 254b (b) of this title, (2) as a member of the Indian Health Service or the Federal Health Programs Service and in an area (determined under section 254b of this title or otherwise) to have a health manpower shortage, or (3) in connection with any program, designated by the Secretary, for the provision of health care and services in such an area. For persons receiving a degree from a school of medicine, osteopathy, or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this subsection unless the internship or residency is served in a facility of the Service or other facility of the National Health Service Corps.

(f) Liability for failure to complete an active duty service obligation, academic dismissal from the Program, or voluntary termination of academic training in the Program; recovery by United States of amounts paid out; waiver or suspension of liability.

(1) If, for any reason, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition and other education expenses, and scholarship payments, paid under this section, plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

(2) When a person undergoing training in the Program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for him from Federal funds plus any scholarship payments which he received under the program.

(3) The Secretary shall by regulation provide for the waiver or suspension of any obligation under paragraph (1) or (2) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

(g) Employment ceiling of the Department of Health, Education, and Welfare not affected by participants.

Notwithstanding any other provision of law, persons undergoing academic training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

(h) Issuance of regulations by Secretary.

The Secretary shall issue regulations governing the implementation of this section.

(i) Authorization of appropriations.

To carry out the Program, there is authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975. (July 1, 1944, ch. 373, title II, § 225, as added Oct. 27, 1972, Pub. L. 92–585, § 5, 86 Stat. 1293, and amended Aug. 23, 1974, Pub. L. 93–385, § 1, 88 Stat. 741.)

AMENDMENTS

1974—Subsec. (i). Pub. L. 93–385 authorized appropriations of $40,000,000 for the fiscal year ending June 30, 1975.

§ 235. Administration of grants in multigrant projects; promulgation of regulations.

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapters V, VI, and VII of this chapter, and sections 242b, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administraton of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law. (July 1, 1944, ch. 373, title II, § 226, formerly title III, § 310A, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 270, 84 Stat. 1306, and amended Nov. 18, 1971, Pub. L. 92–157, title II, § 201, 85 Stat. 461; renumbered July 23, 1974, Pub. L. 93–353, title I, § 102(e), 88 Stat. 362.)

CODIFICATION

Section was formerly classified to section 242i of this title.

AMENDMENTS

1971—Pub. L. 92–157 provided for administration of programs established under subchapters V and VI of this chapter.

§ 236. Annual report by Secretary on activities related to health facilities and services and expenditure of funds.

On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of subchapter VII of this chapter and sections 246(a), 246(b), 246(c), 246(d), and 246(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationships between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate. (July 1, 1944, ch. 373, title II, § 227, formerly title III, § 310B, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 280, 84 Stat. 1307, and renumbered and amended July 23, 1974, Pub. L. 93–353, title I, § 102(f), 88 Stat. 362.)

CODIFICATION

Section was formerly classified to section 242j of this title.

AMENDMENTS

1974—Pub. L. 93–353, § 102(f)(1), struck out references to sections 242b and 242c of this title.

SUBCHAPTER II.—GENERAL POWERS AND DUTIES

PART A.—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally.

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

* * * * *

(c) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Cancer Advisory Board, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart diseases, recommended by the National Heart and Lung Advisory Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for

research projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research grants-in-aid for such fiscal year;

(d) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(e) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(f) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(g) Enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of Title 10, except that determination, approval and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(h) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Cancer Advisory Board, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Heart and Lung Advisory Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section. (As amended Dec. 23, 1971, Pub. L. 92–218, § 6(a)(2), 85 Stat. 785; Sept. 19, 1972, Pub. L. 92–423, § 7(b), 86 Stat. 687; July 12, 1974, Pub. L. 93–348, title I, § 104(a)(1), 88 Stat. 346; July 23, 1974, Pub. L. 93–352, title I, § 111, 88 Stat. 360.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-348, § 104(a)(1)(A)–(C), struck authorization of Surgeon General to establish and maintain research fellowships in the Public Health Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad, now covered in section 298*l*–1(b) of this title; substituted "research projects" for "research or research training projects" in two instances, "general support of their research" for "general support of their research and research training programs" and "research grants-in-aid" for "research and research training program grants-in-aid"; and redesignated former subsec. (d) as amended as subsec. (c).

Subsec. (d). Pub. L. 93–348, § 104(a)(1)(C), redesignated former subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsecs. (e), (f), Pub. L. 93–348, § 104(a)(1)(C), redesignated former subsecs. (f) and (g) as subsecs. (e) and (f), respectively. Formerly subsec. (e) redesignated (d).

Subsec. (g). Pub. L. 93–348, § 104(a)(1)(C), redesignated former subsec. (h) and (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 93–352 struck out "during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years" following "Enter into contracts".

Pub. L. 93–348, § 104(a)(1)(C), redesignated former subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 93–348, § 104(a)(1)(C), redesignated former subsec. (i) as (h).

1972—Subsecs. (d), (i). Pub. L. 92–423 substituted "National Heart and Lung Advisory Council" for "National Advisory Heart Council".

1971—Subsecs. (d), (i). Pub. L. 92–218 substituted "National Cancer Advisory Board" for "National Advisory Cancer Council".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 104(b) of Pub. L. 93–348 provided that: "The amendments made by subsection (a) [amending sections 241(c)–(i), 242a(a)(1), (b), 282(a)(3)–(7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c)–(f), 289c(a), 289c—1(c)(2), 289g, 289k, and heading preceding section 289*l* of this title] shall not apply with respect to commitments made before the date of the enactment of this Act [July 12, 1974] by the Secretary of Health, Education, and Welfare for research training under the provisions of the Public Health Service Act amended or repealed by subsection (a)."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 242a, 263, 282, 283, 287a, 287h, 288a, 288b, 289a, 289c, 289d, 289g, 289k, 289k–1, 289k–4, 300e–1, 300e–2, 300e–3, 300e–5, 1857l, 4551 of this title; title 21 section 1911.

§ 242. Studies and investigations on use and misuse of narcotic drugs and other drugs; annual report to the Attorney General; cooperation with States.

MARIHUANA AND HEALTH REPORTING

Pub. L. 91–296, title V, §§ 501–503, June 30, 1970, 84 Stat. 352, provided as follows:

"SEC. 501 [CONGRESSIONAL FINDINGS]

"The Congress finds that the use of marihuana is increasing in the United States, especially among the young people thereof, and that there is need for a better understanding of the health consequences of using marihuana. The Congress further finds that, notwithstanding the various studies carried out, and research engaged in, with respect to the use of marihuana, there is a lack of an authoritative source for obtaining information involving the health consequences of using marihuana.

"SEC. 502. [ANNUAL REPORT TO CONGRESS BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE]

"The Secretary of Health, Education, and Welfare, after consultation with the Surgeon General and other appropriate individuals, shall transmit a report to the Congress on or before January 31, 1971, and annually thereafter (1) containing current information on the health consequences of using marihuana, and (2) containing such recommendations for legislative and administrative action as he may deem appropriate. A preliminary report shall be transmitted to the Congress by the Secretary concerning current information on the health consequences of using marihuana not later than ninety (90) days after the date of enactment of this title [June 30, 1970].

"SEC. 503. [SHORT TITLE]

"This title may be cited as the 'Marihuana and Health Reporting Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 21 section 1191.

§ 242a. Mental health; clinical training and instruction and clinical traineeships; stipends and allowances; research projects; protection of identity of subjects of drug research; grants to public and other nonprofit institutions.

(a) In carrying out the purposes of section 241 of this title with respect to mental health, the Surgeon General is authorized—

(1) to provide clinical training and instruction and to establish and maintain clinical traineeships (with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary);

* * * * *

The Secretary may authorize persons engaged in research on mental health, including research on the use and effect of alcohol and other psychoactive drugs, to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(b) The Secretary may provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions. Grants under paragraph (2) of subsection (a) of this section may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary. (As amended May 14, 1974, Pub. L. 93–282, title I, § 122(b), 88 Stat. 132; July 12, 1974, Pub. L. 93–348, title I, § 104(a)(2), 88 Stat. 346.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–282 substituted "mental health, including research on the use and effect of alcohol and other psychoactive drugs" for "the use and effect of drugs".

Subsec. (a)(1). Pub L. 93–348, § 104(a)(2)(A), inserted "clinical" preceding "training and instruction" and "traineeships" and substituted following "traineeships" parenthetical phrase "(with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary)" for ", in accordance with the provisions of section 289c(a) of this title".

Subsec. (b). Pub. L. 93–348, § 104(a)(2)(B), authorized the Secretary to provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289k–1, 4551 of this title; title 21 sections 850, 1191.

§ 242b. General authority respecting health statistics and health services research, evaluations, and demonstrations.

(a) Scope of activities.

(1) The Secretary shall—

(A) undertake through the National Center for Health Services Research, the National Center for Health Statistics, and such other units of the Department of Health, Education, and Welfare as he may select, and

(B) support,

health statistical activities and health services research, evaluation, and demonstrations.

(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research and statistical activities respecting—

(A) the determinants of an individual's health,

(B) the impact of the environment on individual health and on health care,

(C) the accessibility, acceptability, planning, organization, technology, distribution, utilization, quality, and financing of systems for the delivery of health care, including systems for the delivery of preventive, personal, and mental health care, and

(D) individual and community knowledge of individual health and the systems for the delivery of health care.

(b) Additional authority; scope of activities.

To implement subsection (a) of this section, the Secretary may, in addition to any other authority which under other provisions of this chapter or any other law may be used by him to implement such subsection, do the following:

(1) Utilize personnel and equipment, facilities, and other physical resources of the Department of Health, Education, and Welfare, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and enter into contracts with public and private entities and individuals, for (A) health services research, evaluation, and demonstrations, and (B) health services research and health statistics training, and (C) health statistical activities.

(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such facilities.

(3) Secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad.

(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to section 34 of Title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

(c) Coordination of activities through units of the Department.

The Secretary shall coordinate all health services research, evaluation, demonstration, and health statistical activities undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research and the National Center for Health Statistics. (As amended June 18, 1973, Pub. L. 93–45, title I, § 102, 87 Stat. 91; July 23, 1974, Pub. L. 93–353, title I, § 103, 88 Stat. 362.)

AMENDMENTS

1974—Pub. L. 93–353, in revising generally provisions of subsecs. (a) to (c), provided for general authority respecting health statistics and health services research, evaluation, and demonstrations, subsec. (a) relating to scope of activities, subsec. (b) relating to additional authority and scope of activities, and subsec. (c) relating to coordination of activities through units of the Department. Former provisions related to research and demonstrations relating to health facilities and services, subsec. (a) relating to grants and contracts for projects for research, experiments, or demonstrations and related training, cost limitation, wage rates, labor standards, and other conditions, and payments (former subec. (a) (2) and (3) now being covered by section 242m(h) and (e), respectively), subsec. (b) relating to systems analysis of national health care plans, and cost and coverage report on existing legislative proposals, and subsec. (c) relating to authorization of appropriations.

1973—Subsec. (c)(1). Pub. L. 93–45 authorized appropriations of $42,617,000 for fiscal year ending June 30, 1974.

SHORT TITLE

Section 1(a) of Pub. L. 93–353 provided that: "This Act [which enacted sections 242k, 242m to 242o, and 253b of this title, renumbered as sections 235, 236, 242*l*, 244–1, 245a, and 247d former sections 242i, 242j, 242f, 242d, 242g, and 242h, amended sections 236, 242b, 242c, 242*l*, 244–1, 245a, 280b, 280b–1, 280b–2, 280b–4, 280b–5, and 280b–7 to 280b–9, and repealed sections 242e, 244, 244a, 245, 247, 280b–3, and 280b–12 of this title, and enacted provisions set out as notes under sections 242m, 253b, and 280b of this title] may be cited as the 'Health Services Research, Health Statistics, and Medical Libraries Act of 1974'."

Section 101 of Pub. L. 93–353 provided that: "This title [which added sections 242k, 242m to 242o, and 253b, renumbered as sections 235, 236, 242*l*, 244–1, 245a, and 247d former sections 242i, 242j, 242f, 242d, 242g, and 242h, amended sections 236, 242b, 242c, 242*l*, 244–1, and 245a, and repealed sections 242e, 244, 244a, 245, and 247 of this title and enacted provisions set out as notes under sections 242m and 253b of this title] may be cited as the 'Health Services Research and Evaluation and Health Statistics Act of 1974'."

Section 1 of Pub. L. 93–45 provided that: "This Act [which enacted section 300a–7 and amended sections 242b(c)(1), 242c(d), 242d(a), 242g(a), (c), 242h, 246(a)(1), (b)(1)(A), (c), (d)(1), (e), 280b–4(a), 280b–5(a), (b), 280b–7(a), 280b–8(a), 280b–9(a), 291a, 291j–1, 291j–5, 295h–1(b), (c)(1), 295h–2(a), 295h–3a(b), 299a(a), 300(c), 300a–1(b), 300a–2(b), 300a–3(b), 2661(a), (b), 2671, 2677(b)(1), 2681(a), 2687, 2688a(b), 2688d(a), 2688j–1, 2688j–2(d), 2688*l*, 2688*l*–1(d), 2688n–1(e), 2688*o*(a), (b), and 2688u(d) of this title, and enacted provisions set out as amendment to note provisions under section 201 of this title] may be cited as the 'Health Programs Extension Act of 1973'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 235, 242c, 242k, 242*l*, 242m, 280c, 300*l*–3 of this title.

§ 242c. National Center for Health Services Research.

(a) Establishment; appointment and supervision of Director.

There is established in the Department of Health, Education, and Welfare the National Center for Health Services Research (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) Duties.

In carrying out section 242b(a) of this title, the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects (which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act and the Social Security Amendments of 1967) respecting—

(1) the accessibility, acceptability, planning, organization, distribution, technology, utilization, quality, and financing of health services and systems;

(2) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; and

(3) the design, construction, utilization, organization, and cost of facilities and equipment.

(c) Research, evaluation, and demonstration projects respecting certain specific matters.

The Secretary shall afford appropriate consideration to requests of—

(1) State, regional, and local health planning and health agencies,

(2) public and private entities and individuals engaged in the delivery of health care, and

(3) other persons concerned with health services,

to have the Center or other units of the Department of Health, Education, and Welfare undertake research, evaluations, and demonstrations respecting specific aspects of the matters referred to in subsection (b) of this section.

(d) New centers for multidisciplinary health services and research, evaluation, and demonstration projects respecting certain specific matters; grants or contracts for assistance of nonprofit entities; approval of applications for grants and contracts for: Health Care Technology Center, Health Care Management Center and additional centers; requirements for aid.

(1) The Secretary shall, by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services, research, evaluations, and demonstrations respecting the matters referred to in subsection (b) of this section. To the extent practicable, the Secretary shall approve, in accordance with the requirements of this subsection and section 242m of this title, a number of applications for grants and contracts under this subsection which will result in at least six of such centers

(including two national special emphasis centers, one of which (to be designated as the Health Care Technology Center) shall focus on all forms of technology, including computers and electronic devices, and its applications in health care delivery; and one of which (to be designated as the Health Care Management Center) shall focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field) being operational in each fiscal year.

(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary determines that when it is operational it will meet the requirements listed in subparagraph (B) and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

(B) The requirements referred to in subparagraph (A) are as follows:

(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

(ii) The staff of the center shall represent all relevant disciplines.

(iii) The center shall (I) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (II) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

(iv) The center shall select problems in health services for research, demonstrations, and evaluations on the basis of (I) their regional or national importance, (II) the unique potential for definitive research on the problem, and (III) opportunities for local application of the research findings.

(v) Such additional requirements as the Secretary may be regulation prescribe.

(e) Additional authority of Secretary concerning research, evaluation, and demonstration projects respecting certain specific matters.

The authority of the Secretary under section 242b (b) of this title shall be available to him with respect to the undertaking and support of projects under subsections (b), (c), and (d) of this section. (As amended June 18, 1973, Pub. L. 93–45, title I, § 103, 87 Stat. 91; July 23, 1974, Pub. L. 93–353, title I, § 104, 88 Stat. 363.)

REFERENCES IN TEXT

Social Security Act, referred to in subsec. (b), is classified to section 301 et seq. of this title.

For classification of Social Security Amendments of 1967, referred to in subsec. (b), see Short Title note, set out under section 302 of this title.

AMENDMENTS

1974—Pub. L. 93–353, in revising generally provisions of subsecs. (a) to (e), provided for a National Center for Health Services Research, subsec. (a) relating to establishment of such National Center under supervision of a Director, subsec. (b) relating to its duties, subsec. (c) relating to research, evaluation, and demonstration projects respecting certain specific matters, subsec. (d) relating to new centers for multidisciplinary health services and research, evaluation, and demonstration projects respecting certain specific matters, grants or contracts for assistance of nonprofit entities, approval of applications for grants and contracts for Health Care Technology Center, Health Care Management Center, and additional centers, and requirements for aid, and subsec. (e) relating to additional authority of Secretary concerning research, evaluation, and demonstration projects respecting certain specific matters. Former provisions related to conduct of national health surveys and studies, subsec. (a) relating to determination of extent of illness and disability and related information, development and test of methods for obtaining current data, and use and publication of information, subsec. (b) relating to development of uniform system of health information and statistics, subsec. (c) relating to publication of results, subsec. (d) relating to authorization of appropriations, and subsec. (e) relating to cooperation with other Governmental or State agencies.

1973—Subsec. (d). Pub. L. 93–45 authorized appropriations of $14,518,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242*l*, 242m of this title.

§ 242d. Transferred.

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923, and later amended, was redesignated as section 312 of act July 1, 1944, ch. 373, by Pub. L. 93–353, July 23, 1974, title I, § 102(b), 88 Stat. 362, and is now classified to section 244–1 of this title.

§ 242e. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

Section, act July 1, 1944, ch. 373, title III, § 307, as added Aug. 2, 1956, ch. 871, title II, § 201, 70 Stat. 924, and amended July 23, 1959, Pub. L. 86–105, § 2, 73 Stat. 239; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311, provided for a professional nurse traineeship program for which authorization of appropriations were made through fiscal year ending June 30, 1964. Provision for the continuation of the program was made by the Nurse Training Act of 1964 and is now contained in section 297 et seq. of this title.

§§ 242f to 242j. Transferred.

CODIFICATION

Sections 308, 309, 310, 310A and 310B of act July 1, 1944, ch. 373, were redesignated sections 307, 313, 319, 226 and 227, respectively, of act July 1, 1944, ch. 373, by Pub. L. 93–353, title I, §§ 102(c)(2), (d), (e), (f)(2), 106, July 23, 1974, 88 Stat. 362, 367.

Section 242f transferred to section 242*l* of this title.

Section 242g transferred to section 245a of this title.

Section 242h transferred to section 247d of this title.

Sections 242i and 242j transferred to sections 235 and 236, respectively, of this title.

§ 242k. National Center for Health Statistics.

(a) Establishment; appointment and supervision of Director.

There is established in the Department of Health, Education, and Welfare the National Center for Health Statistics (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) Duties.

In carrying out section 242b(a) of this title, the Secretary, acting through the Center, may—

(1) collect statistics on—

(A) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

(B) the impact of illness and disability of the population on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

(C) environmental, social, and other health hazards,

(D) determinants of health,

(E) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

(F) utilization of health care, including utilization of (i) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

(G) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

(H) family formation, growth, and dissolution; and

(2) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in paragraph (1).

(c) Statistical compilations and surveys.

The Center shall furnish such special statistical compilations and surveys as the Committee on Labor and Public Welfare and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives may request. Such statistical compilations and surveys shall not be made subject to the payment of the actual or estimated cost of the preparation of such compilations and surveys.

(d) Technical aid to States and localities.

To insure comparability and reliability of health statistics, the Secretary shall, through the Center, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

(e) Federal-State-local cooperative health statistics system.

The Secretary shall (1) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (2) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (3) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting such cooperative system; (4) provide the Federal share of the data collection costs under such system; and (5) review statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with such cooperative system.

(f) Federal-State cooperation.

To assist in carrying out this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 5 of Title 41, of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

(g) Collection of health data; data collection forms.

To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

(h) Registration area records.

There shall be an annual collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such records of the States and municipalities which the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

(i) United States National Committee on Vital and Health Statistics; establishment; membership; term of office; vacancies; service pending a successor in office; compensation; functions; consultations of Secretary with Committee and professional advisory groups.

(1) There is established in the Office of the Secretary a committee to be known as the United States National Committee on Vital and Health Statistics (hereinafter in this subsection referred to as the "Committee") which shall consist of fifteen members.

(2) (A) The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, epidemiology, and the provision of health services. Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of three years.

(B) Of the members first appointed—

(i) five shall be appointed for terms of one year,

(ii) five shall be appointed for terms of two years, and

(iii) five shall be appointed for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) Members of the Committee shall be compensated in accordance with section 210(c) of this title.

(4) It shall be the function of the Committee to assist and advise the Secretary—

(A) to delineate statistical problems bearing on health and health services which are of national or international interest;

(B) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

(C) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (i) within the Department of Health, Education, and Welfare, (ii) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e) of this section, and (iii) to the extent possible as determined by the head of the agency involved, by the Veterans' Administration, the Department of Defense, and other Federal agencies concerned with health and health services;

(D) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health, Education, and Welfare;

(E) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

(F) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest; and

(G) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems.

(5) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of, the Committee and other appropriate professional advisory groups. (July 1, 1944, ch. 373, title III, § 306, as added July 23, 1974, Pub. L. 93–353, title I, § 105, 88 Stat. 365.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (g) of this section were contained in section 313 of act July 1, 1944, ch. 373, title III, 58 Stat. 693, as amended Oct. 30, 1970, Pub. L. 91–516, title II, § 282, 84 Stat. 1308 (formerly classified to section 245 of this title) prior to repeal of the provision by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

Provisions similar to those comprising subsec. (h) of this section were contained in section 312a of act July 1, 1944, ch. 373, title III, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025 (formerly classified to section 244a of this title) prior to repeal of the provision by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242*l*, 242m, 300*l*–2, 300m–1 of this title.

§ 242*l*. International cooperation.

(a) Cooperative endeavors; statement of purpose.

For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research and the health services research and statistical activities authorized by sections 242b, 242c, and 242k of this title.

(b) Authority of Secretary; building construction prohibition.

In connection with the cooperative endeavors authorized by subsection (a) of this section, the Secretary may—

(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

(2) establish and maintain fellowships in the United States and in participating foreign countries;

(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

(4) make grants or loans of equipment and materials, for use by public or nonprofit institutions or agencies, or by individuals, in participating foreign countries;

(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, or health statistics;

(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of biomedical research, health services research, and health statistical activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not

to exceed those provided in section 5703(b) of Title 5 for persons in the Government service employed intermittently; and

(7) procure, in accordance with section 3109 of Title 5, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country. (July 1, 1944, ch. 373, title III, § 307, formerly § 308, as added July 12, 1960, Pub. L. 86–610, § 3, 74 Stat. 364, renumbered and amended July 23, 1974, Pub. L. 93–353, title I, § 106, 88 Stat. 367.)

REFERENCES IN TEXT

Section 5703 of Title 5, referred to in subsec. (b)(6), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

CODIFICATION

Section was formerly classified to section 242f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242m of this title.

§ 242m. General provisions respecting sections 242b, 242c, 242k, and 242*l* of this title concerning general authority of Secretary, National Center and other centers for Health Services Research, National Center for Health Statistics, and International cooperation.

(a) Reports to Congress, and President and Congress; review by Office of Management and Budget.

(1) Not later than September 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of sections 242b, 242c, 242k, and 242*l* of this title during the preceding fiscal year, and (B) the current state and progress of health services research and health statistics.

(2) The Secretary, acting through the National Center for Health Services Research and the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than September 1 of each year the following reports:

(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 242k(b)(1)(G) of this title.

(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 242k(b)(1)(E) of this title.

(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(F) of this title.

(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(A) of this title.

(3) The Office of Management and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comment respecting any such report.

(b) Grants or contracts; applications, submittal; application review panel, findings and recommendations; other provisions applicable.

(1) No grant or contract may be made under section 242b, 242c, 242k, or 242*l* of this title unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

(2) Each application submitted for a grant or contract under section 242b or 242c of this title, in an amount exceeding $35,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.

(3) If an application is submitted under section 242b, 242c, or 242k of this title for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this chapter, such application may not be approved under section 242b, 242c, or 242k of this title and funds appropriated under this section may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this chapter under which such application may be submitted.

(c) Fiscal year number and fund limitation of grants and contracts.

The aggregate number of grants and contracts made or entered into under sections 242b and 242c of this title for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed twenty; and the aggregate amount of funds obligated under grants and contracts under such sections for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed $5,000,000.

(d) Information; publication restrictions.

No information obtained in the course of activities undertaken or supported under section 242b, 242c, 242k, or 242*l* of this title may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations of the Secretary; and (1) in the case of information obtained in the course of health statistical activities under section 242b or 242k of this title, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form, and (2) in the case of information obtained in the course of health services research, evaluations,

or demonstrations under section 242b or 242c of this title, such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

(e) Payment procedures; advances or reimbursement; installments; conditions; reductions.

(1) Payments of any grant or under any contract under section 242b, 242c, 242k, or 242*l* of this title may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of such section.

(2) The amounts otherwise payable to any person under a grant or contract made under section 242b, 242c, 242k, or 242*l* of this title shall be reduced by—

(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

(f) Contracts without regard to section 529 of Title 31 and section 5 of Title 41.

Contracts may be entered into under section 242b, 242c, or 242k of this title without regard to section 529 of Title 31 and section 5 of Title 41.

(g) Research results; publication; indexing, abstracting, and other services; prohibition against restriction of publication and dissemination of national center project data and results; statistical publications.

(1) The Secretary shall—

(A) publish, make available and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under sections 242b and 242c of this title,

(B) make available to the public data developed in such research, demonstrations, and evaluations; and

(C) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on health services research, demonstrations, and evaluations in health care delivery to public and private entities and individuals engaged in the improvement of health care delivery and the general public; and undertake programs to develop new or improved methods for making such information available.

Except as provided in subsection (d) of this section, the Secretary may not restrict the publication and dissemination of data from, and results of projects undertaken by, centers supported under section 242c (d) of this title.

(2) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under sections 242b, 242c, and 242k of this title are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

(h) Project facility or equipment cost limitation of grants and contracts; labor standards; regulations.

(1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of section 242b, 242c, or 242k of this title, a grant or contract under section 242b, 242c, or 242k of this title with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (Appendix of Title 5) and section 276c of Title 40.

(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.

(i) Authorization of appropriations.

(1) For health service research, evaluation, and demonstration activities undertaken or supported under section 242b or 242c of this title, there are authorized to be appropriated $65,200,000 for the fiscal year ending June 30, 1975, and $80,000,000 for the fiscal year ending June 30, 1976. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Secretary under such section.

(2) For health statistical activities undertaken or supported under section 242b or 242c of this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976. (July 1, 1944, ch. 373, title III, § 308, as added July 23, 1974, Pub. L. 93–353, title I, § 107(a), 88 Stat. 368.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (e) of this section were contained in subsec. (a)(3) of section 304 of act July 1, 1944, ch. 373, title III, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and thereafter amended (formerly classified to section 242b(a)(3) of this title) prior to general amendment of such section 304 by Pub. L. 93–353, title I, § 103, July 23, 1974, 88 Stat. 362.

Provisions similar to those comprising subsec. (h)(1) of this section were contained in subsec. (a)(2) of section 304 of act July 1, 1944, ch. 373, title III, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and thereafter amended (formerly classified to section 242b(a)(2) of this title) prior to general amendment of such section 304 by Pub. L. 93–353, title I, § 103, July 23, 1974, 88 Stat. 362.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1977

Section 107(b) of Pub. L. 93–353 provided that: "The authorizations of appropriations provided by section 308 (1) of the Public Health Service Act [subsec. (l) of this section] is extended for the fiscal year ending June 30, 1977, in the amounts authorized for the preceding fiscal year unless before June 30, 1976, Congress has passed legislation repealing this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242c of this title.

§ 242n. Health conferences.

A conference of the health authorities in and among the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend. (July 1, 1944, ch. 373, title III, § 309, as added July 23, 1974, Pub. L. 93–353, title I, § 107(a), 88 Stat. 371.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 312 of act July 1, 1944, ch. 373, title III, 59 Stat. 693, as amended (formerly classified to section 244 of this title) prior to repeal of the provision by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

§ 242o. Publication of health educational information.

From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services. (July 1, 1944, ch. 373, title III, § 310, as added July 23, 1974, Pub. L. 93–353, title I, § 107(a), 88 Stat. 371.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 315 of act July 1, 1944, ch. 373, title III, 58 Stat. 695, as amended Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308 (formerly classified to section 247 of this title) prior to repeal of the provision by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

PART B.—FEDERAL-STATE COOPERATION

§ 244. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

Section, acts July 1, 1944, ch. 373, title III, § 312, 58 Stat. 693; July 3, 1946, ch. 538, § 8, 60 Stat. 424; Dec. 5, 1967, Pub. L. 90–174, § 12(b), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for health conferences, and is now covered by section 242n of this title.

§ 244–1. Graduate or specialized training for physicians, engineers, nurses, and other professional personnel.

(a) Appropriations.

There are authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine but not to exceed $4,500,000 for the fiscal year ending June 30, 1965, $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $10,000,000 each for the fiscal year ending June 30, 1968, and the two succeeding fiscal years, $14,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, $18,000,000 for the fiscal year ending June 30, 1973, and $10,300,000 for the fiscal year ending June 30, 1974, to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel.

(b) Awards of traineeships to individuals or institutions.

Traineeships under this section may be awarded by the Secretary either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

(c) Payments; time; conditions; limitations.

Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments to institutions may be used only for traineeships, and payments under this section with respect to any traineeship shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

(d) Advisory committee; composition and functions.

The Secretary shall appoint an expert advisory committee, composed of persons representative of the principal health specialties in the fields of public health administration and training, to advise him in connection with the administration of this section and section 245a of this title, including the development of program standards and policies and including, in the case of section 245a of this title, certification to the Secretary of projects which it has reviewed and approved.

(e) Supervision of personnel or curriculum.

Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution. (July 1, 1944, ch. 373, title III, § 312, formerly § 306, as added Aug. 2, 1956, ch. 871 title I, § 101, 70 Stat. 923, and amended July 23, 1959, Pub. L. 86–105, § 1, 73 Stat. 239; Sept. 8, 1960. Pub. L. 86–720, § 1(b), 74 Stat. 820; Aug. 27, 1964, Pub. L. 88–497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(b), 82 Stat. 789;

Mar. 12, 1970, Pub. L. 91–208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; June 18, 1973, Pub. L. 93–45, title I, § 104(a), 87 Stat. 91; renumbered and amended July 23, 1974, Pub. L. 93–353, title I, § 102(b), 88 Stat. 362.)

CODIFICATION

Section was formerly classified to section 242d of this title.

AMENDMENTS

1974—Subsecs. (b) to (f). Pub. L. 93–353, § 102(b)(1), in subsecs. (b) to (d), substituted "Secretary" for "Surgeon General" wherever appearing; in subsec. (d) substituted reference to section "245a" for "242g" of this title; struck out former subsec. (e) provisions for calling a conference between June 30 and Dec. 1 in 1958, 1963, and 1967, by representatives of professional and training groups with respect to appraisal of traineeships and submission of reports and recommendation of the conferences to the Congress, and redesignated former subsec. (f) as (e).

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $10,300,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91–208 authorized the appropriation of $16,000,000 and $18,000,000, respectively, for the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (d). Pub. L. 91–515 struck out the provisions which related to the payment of compensation and travel expenses of members of the advisory committee not otherwise in the employ of the United States.

1968—Subsec. (a). Pub. L. 90–490, § 302(b)(1), authorized appropriations of $10,000,000 and $14,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, and declared sanitarians eligible for training.

Subsec. (d). Pub. L. 90–490, § 302(b)(2), increased limitation of compensation from $50 to $100.

1964—Subsec. (a). Pub. L. 88–497, § 2(a), substituted "twelve fiscal years" for "seven fiscal years" and specified maximum limits for the authorized appropriations for the fiscal years 1965–1969.

Subsec. (e). Pub. L. 88–497, § 2(b), required the Surgeon General to call a conference between June 30, 1967, and Dec. 1, 1967, and to submit a report to Congress on or before Jan. 1, 1968.

1960—Subsec. (d). Pub L. 86–720 inserted the words "and section 242g of this title" and "and including, in the case of section 242g of this title, certification to the Surgeon General of projects which it has reviewed and approved."

1959—Subsec. (a). Pub. L. 86–105 substituted "seven fiscal years" for "two fiscal years."

Subsec. (e). Pub. L. 86–105 required the Surgeon General to call a conference between June 30, 1963 and Dec. 1, 1963, and to submit a report to Congress on or before Jan. 1, 1964.

EFFECTIVE DATE

Section 102 of act Aug. 2, 1956, provided that this section shall become effective on July 1, 1956.

SHORT TITLE OF 1964 AMENDMENT

Section 1 of Pub. L. 88–497 provided that Pub. L. 88–497, amending this section and section 242g of this title, may be cited as the "Graduate Public Health Training Amendments of 1964."

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973. to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 245a and 295h–8 of this title.

§§ 244a, 245. Repealed. Pub. L. 93–353, title I, § 102(a) July 23, 1974, 88 Stat. 362.

Section 244a, act July 1, 1944, ch. 373, title III, § 312a, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025, related to birth and death statistics, annual collection, and compensation for transcription, and is now covered by section 242k(h) of this title.

Section 245, acts July 1, 1944, ch. 373, title III, § 313, 58 Stat. 693; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for collection of vital statistics, and is now covered by section 242k(g) of this title.

§ 245a. Graduate public health training grants.

(a) Appropriations.

In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated not to exceed $2,000,000 for each fiscal year in the period beginning July 1, 1960, and ending June 30, 1964, $2,500,000 for the fiscal year ending June 30, 1965, $4,000,000 for the fiscal year ending June 30, 1966, $5,000,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $9,000,000 for the fiscal year ending June 30, 1969, $8,500.000 for the fiscal year ending June 30, 1970, $14,000.000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $16,000,000 for the fiscal year ending June 30, 1973, and $6.500.000 for the fiscal year ending June 30, 1974.

(b) Recommended projects; duration of grant; payments.

Grants to institutions under subsection (a) of this section may be made only for those projects which are recommended by the advisory committee appointed pursuant to section 244–1(d) of this title. Any grant for a project made from an appropriation under this section for any fiscal year may include such amounts for carrying out such project during succeeding years. Payment pursuant to such grants may be made in advance or by way of reimbursement, and in such installments as the Secretary shall prescribe by regulations after consultation with representatives of such institutions.

(c) Authorization of appropriations for grants to schools of public health for comprehensive professional training, specialized consultative services, and technical assistance.

There are also authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1970, $9,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and $6,500,000 for the fiscal year ending June 30, 1974, to enable the Secretary to make grants, under such terms and conditions as may be prescribed by regulations, for provision, in public or nonprofit private schools of public health accredited by a body or bodies recognized by the Secretary, of comprehensive professional training, specialized consultative services, and technical assistance in the fields of public health and in the administration of State or local public health programs, except that in allocating funds made available under this subsection among such schools of public health, the

Secretary shall give primary considerations to the number of federally sponsored students attending each such school. (July 1, 1944, ch. 373, title III, § 313, formerly § 309, as added Sept. 8, 1960, Pub. L. 86–720, § 1(a), 74 Stat. 819, and amended Aug. 27, 1964, Pub. L. 88–497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89–749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90–174, §§ 2(g), 8(c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91–208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(B), 84 Stat. 352; June 18, 1973, Pub. L. 93–45, title I, § 104 (b), (c), 87 Stat. 91; renumbered and amended July 23, 1974, Pub. L. 93–353, title I, § 102 (c), 88 Stat. 362.)

CODIFICATION

Section was formerly classified to section 242g of this title.

AMENDMENTS

1974—Subsecs. (a) to (c). Pub. L. 93–353, § 102(c)(1)(A), (B), in subsecs (a) to (c), substituted "Secretary" for "Surgeon General" wherever appearing; and, in subsec. (b), substituted reference to section "244–1(d)" for "242d(d)" of this title.

1973—Subsec. (a). Pub. L. 93–45, § 104(b), authorized appropriations of $6,500,000 for fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93–45, § 104(c), authorized appropriations of $6,500,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91–208, § 2, increased from $12,000,000 to $14,000,000 the authorization of appropriation for the fiscal year ending June 30, 1971, and added authorization of appropriations of $15,000,000 and $16,000,000, respectively, for the fiscal years ending June 30, 1972, and June 30, 1973.

Subsec. (c). Pub. L. 91–296 struck out provisions authorizing the use of appropriated funds for evaluation of the program authorized by subsec. (c).

Pub. L. 91–208, § 1, authorized the appropriation of $9,000,000, $12,000,000 and $15,000,000, for the fiscal years ending June 3, 1971, 1972, and 1973, respectively.

1968—Subsec. (a). Pub. L. 90–490 authorized appropriations of $8,500,000 and $12,000,000 for fiscal years ending June 30, 1970, and June 30, 1971, respectively.

1967—Subsec. (c). Pub. L. 90–174 struck out "each" after "$5,000,000" and authorized appropriations of $6,000,000 and $7,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and designated existing provisions as cl. (1) and added cl. (2), respectively.

1966—Subsec. (c). Pub. L. 89–749 added subsec. (c).

1964—Subsec. (a). Pub. L. 88–497, § 3 (a), (b), substituted authority to appropriate for public or nonprofit private institutions instead of schools of nursing or engineering providing training in public health for nurses or engineers, increased the maximum authorization for the fiscal year ending June 30, 1965, from $2,000,000 to $2,500,000, and authorized appropriations for the fiscal years 1966–1969.

Subsec. (b). Pub. L. 88–497, § 3(c), substituted "institutions" for "schools" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401(b)(1) of Pub. L. 91–296 provided, in part, that the amendment by section 401(b)(1)(B) of Pub. L. 91–296 [amending subsec. (c) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2(g) of Pub. L. 90–174 provided in part that amendment of subsec. (c) by such section 2(g) shall be effective July 1, 1967.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 4 of Pub. L. 89–749 provided in part that subsec. (c) of this section shall be effective July 1, 1967.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(b) of Pub. L. 88–497 provided in part that the substitution of authority to appropriate for public or nonprofit private institutions instead of schools of nursing or engineering in subsec. (a) of this section, shall be effective in case of grants from appropriations for any fiscal year beginning after June 30, 1964.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (c) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244–1 and 295h–8 of this title; title 38 section 5070.

§ 246. Grants and services to States.

(a) Comprehensive health planning and services.

(1) In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974.

* * * * *

(b) Project grants for areawide health planning; authorization of appropriations; prerequisites for grants; application; contents.

(1)(A) The Secretary is authorized, during the period beginning July 1, 1966, and ending, June 30, 1974, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated

$5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June, 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, and $25,100,000 for the fiscal year ending June 30, 1974.

* * * * *

(c) Project grants for training, studies, and demonstrations; authorization of appropriations.

The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demostrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, $12,000,000 for the fiscal year ending June 30, 1973, and $4,700,000 for the fiscal year ending June 30, 1974.

(d) Grants for comprehensive public health services; form, manner, contents and required assurances of application; annual review of activities undertaken in application; prerequisites for approval of application; allotment of funds; maximum amount of grants; availability of allotments; authorization of appropriations.

(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State health and mental health authorities to assist in meeting the costs of providing comprehensive public health services.

(2) No grant may be made under paragraph (1) to the State health or mental health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the comprehensive public health services provided within the State will be provided in accordance with the State plan prepared in accordance with section 300m–3(c)(2) of this title or the State plan approved under subsection (a) of this section, whichever is applicable;

(B) funds received under grants under paragraph (1) will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

(C) the State health authority, and, with respect to mental health activities, the State mental health authority will—

(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

(D) the State mental health authority will—

(i) establish and carry out a plan which—

(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate; and

(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees;

(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) with the State; and

(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities.

(3) The Secretary shall review annually the activities undertaken by each State with an approved application to determine if the State complied with the assurances provided with the application. The

Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

(A) that the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

(B) that he cannot be assured that the State will comply with the assurances provided with the application under consideration.

(4) For the purpose of determining the total amount of grants that may be made to the State health and mental authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

(5) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the public and mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(6) In any fiscal year—

(A) not less than 15 per centum of a State's allotment under paragraph (4) shall be made available only for grants under paragraph (1) to the State's mental health authority for the provision of mental health services; and

(B) not less than—

(i) 70 per centum of the amount of a State's allotment which is made available for grants to the mental health authority, and

(ii) 70 per centum of the remainder of the State's allotment,

shall be available only for the provision[1] services in communities of the State.

(7)(A) For payments under grants under paragraph (1) there are authorized to be appropriated $100,000,000 for fiscal year 1976, and $110,000,000 for fiscal year 1977.

(B) For payments under grants under paragraph (1) for establishing and maintaining programs, described in applications under paragraph (2), for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension there are authorized to be appropriated $15,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977.

(e) Repealed. Pub. L. 94-63, title V, § 501(b), July 29, 1975, 89 Stat. 346.

* * * * *

(As amended Mar. 21, 1972, Pub. L. 92-255, title IV, § 403(a), 86 Stat. 77; June 18, 1973, Pub. L. 93-45, title I, § 106, 87 Stat. 92; Nov. 9, 1973, Pub. L. 93-151, § 8, 87 Stat. 568; July 29, 1975, Pub. L. 94-63, title I, § 102, title V, § 501(b), title VII, § 701(a), (b), 89 Stat. 304, 346, 352.)

[1] So in original. Probably should be "provision of".

AMENDMENTS

1975—Subsec. (d). Pub. L. 94-63, §§ 102, 701(a), substituted provisions relating to grants made pursuant to allotments to State health and mental health authorities for meeting the costs of providing comprehensive public health services, for provisions relating to grants made pursuant to appropriations for the fiscal year ending June 30, 1968 to the fiscal year ending June 30, 1975, to State health or mental health authorities to aid in the establishment and maintenance of adequate public health services, including the training of personnel for State and local health work.

Subsec. (e). Pub. L. 94-63, §§ 501(b), 701(b), struck out subsec. (e), which authorized appropriations from fiscal year ending June 30, 1968 through fiscal year ending June 30, 1975 for project grants for health services and related training, set forth procedures for making such grants, and prohibited grants after the fiscal year ending June 30, 1975, for provisions of this chapter amended by title VII of the Health Revenue Sharing and Health Services Act of 1975.

1973—Subsec. (a)(1). Pub. L. 93-45, § 106(a)(1), authorized appropriations of $10,000,000 for fiscal year ending June 30, 1974.

Subsec. (b)(1)(A). Pub. L. 93-45 § 106(a)(2), (b), authorized appropriations of $25,100,000 for fiscal year ending June 30, 1974, and extended period for making project grants from June 30, 1973, to June 30, 1974.

Subsec. (c). Pub. L. 93-45, § 106(a)(3), (b), authorized appropriations of $4,700,000 for fiscal year ending June 30, 1974, and extended period for grants from June 30, 1973, to June 30, 1974.

Subsec. (d)(1). Pub. L. 93-45, § 106(a)(4), authorized appropriations of $90,000,000 for fiscal year ending June 30, 1974.

Subsec. (e). Pub. L. 93-151 prohibited use of appropriated funds for lead based paint poisoning control.

Pub. L. 93-45, § 106(a)(5), authorized appropriations of $230,700,000 for fiscal year ending June 30, 1974, and prohibited any grant for such fiscal year to cover cost of services described in cl. (1) or (2) of the first sentence if a grant or contract to cover cost of such services may be made or entered into from funds authorized to be appropriated for such fiscal year under an appropriations authorization in any provision of this chapter (other than this subsection) amended by title I of the Health Programs Extension Act of 1973.

1972—Subsec. (d)(2)(K). Pub. L. 92-255 required State plans to provide for licensing of facilities for treatment and rehabilitation of persons with drug abuse and other drug dependence problems and for expansion of State mental health programs and other prevention and treatment programs in the field of drug abuse and drug dependence.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 102 of Pub. L. 94-63 provided in part that the amendment of subsec. (d) by section 102 of Pub. L. 94-63, generally revising prerequisities and procedures for assistance, is effective with respect to grants made under subsec. (d) of this section from appropriations under such subsection for fiscal years beginning after June 30, 1975.

Amendment by section 501(b) of Pub. L. 94-63, striking out provisions of subsec. (e), effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as a note under section 247b of this title.

SHORT TITLE

Section 101 of Pub. L. 94-63 provided that: "This title [amending subsec. (d) of this section and enacting provisions set out as a note under this section] may be cited as the 'Special Health Revenue Sharing Act of 1975'."

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Com-

munity Services Administration, or to the Director thereof, see section 2941 of this title.

PUBLIC HEALTH SERVICES HOSPITALS

Pub. L. 93–155, title VIII, § 818 (a), (b), Nov. 16, 1973, 87 Stat. 622, provided that:

"(a) Except as provided in subsection (b), the Secretary of Health, Education, and Welfare shall take such action as may be necessary to assure that the hospitals of the Public Health Service, located in Seattle, Washington, Boston, Massachusetts, San Francisco, California, Galveston, Texas, New Orleans, Louisiana, Baltimore, Maryland, Staten Island, New York, and Norfolk, Virginia, shall continue—

"(1) in operation as hospitals of the Public Health Service,

"(2) to provide for all categories of individuals entitled or authorized to receive care and treatment at hospitals or other stations of the Public Health Service inpatient, outpatient, and other health care services in like manner as such services were provided on January 1, 1973, to such categories of individuals at the hospitals of the Public Health Service referred to in the matter preceding paragraph (1) and at a level and range at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on such date, and

"(3) to conduct at such hospitals a level and range of other health-related activities (including training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973, at such hospitals.

"(b)(1) The Secretary may—

"(A) close or transfer control of a hospital of the Public Health Service to which subsection (a) applies,

"(B) reduce the level and range of health care services provided at such a hospital from the level and range required by subsection (a)(2) or change the manner in which such services are provided at such a hospital from the manner required by such subsection, or

"(C) reduce the level and range of the other health-related activities conducted at such hospital from the level and range required by subsection (a)(3),

if Congress by law (enacted after the date of the enactment of this Act [Nov. 16, 1973]) specifically authorizes such action.

"(2) Any recommendation submitted to the Congress for legislation to authorize an action described in paragraph (1) with respect to a hospital of the Public Health Service shall be accompanied by a copy of the written, unqualified approval of the proposed action submitted to the Secretary by each (A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which such hospital is located or which is served by such hospital, and (B) section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area.

"(3) For purposes of this subsection, the term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act [subsec. (a) of this section] (referred to in paragraph (2) as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of that Act (referred to in paragraph (2) as a 'section 314(b) plan')."

Pub. L. 93–155, title VIII, § 818(c), Nov. 16, 1973, 87 Stat. 623, repealed provisions of Pub. L. 92–585, § 3, Oct. 27, 1972, 86 Stat. 1292, which related to closing or transferring of control by Secretary of a hospital or other health care delivery facility of the Public Health Service and procedure therefor, and which are now covered by section 818 (a), (b) of Pub. L. 93–155.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 235, 236, 243, 247a, 254b, 291e, 293a, 300d, 300d–1, 300d–5, 300e–2, 300e–3, 300e–5, 300*l*, 300*l*–3, 300*l*–4, 1320a–1, 1857*l*, 2684, 2689r, 2689t of this title; title 21 sections 1173, 1176.

§ 247. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

Section, acts July 1, 1944, ch. 378, title III, § 315, 58 Stat. 695; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for publication of health educational information, and is now covered by section 242o of this title.

§ 247a. Repealed. Pub. L. 93–641, § 5(d), Jan. 4, 1975, 88 Stat. 2275.

Section, act July 1, 1974, ch. 373, title III, § 316, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 281, 84 Stat. 1307, provided for the establishment, composition, qualifications of members, terms of office, vacancies, reappointment, compensation, travel expenses, and functions of the National Advisory Council on Comprehensive Health Planning Programs.

§ 247b. Grants for communicable and other disease control programs.

(a) Consideration in making grants.

The Secretary may make grants to States and, in consultation with the State health authority, to agencies and political subdivisions of States to assist in meeting the costs of communicable and other disease control programs. In making a grant under this section, the Secretary shall give consideration to (1) the relative extent, in the area served by the applicant for the grant, of the problems which relate to one or more of the communicable or other diseases referred to in subsection (h)(1) of this section, and (2) the design of the applicant's communicable or other disease control program to determine its effectiveness.

(b)(1) Applications for grants; submission; approval by Secretary; form; information.

No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Except as provided in paragraph (2), such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) Application requirements.

An application for a grant for a fiscal year beginning after June 30, 1973, shall—

(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the programs he proposes to conduct with assistance from a grant under this section;

(B) contain assurances satisfactory to the Secretary that, in the fiscal year for which a grant under this section is applied for, the applicant will conduct such programs as may be necessary to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases referred to in subsection (h)(1) of this section of the importance of immunization against such diseases, to encourage such persons to seek appropriate immunization, and to facilitate access by such persons to immunization services; and

(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any communicable or other

disease referred to in subsection (h) (1) of this section, and (ii) the communicable and other disease control programs of the applicant.

(3) Consent of individuals.

Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a communicable and other disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward of his treated under such a program.

(c) Method of payment; grant reduction.

(1) Payments under grants under this section may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

(2) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished to such recipient and by the amount of the pay, allowances, travel expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based.

(d) Authorization of appropriations; limitation on use of funds.

(1) There is authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1973, $11,000,000 for the fiscal year ending June 30, 1974, and $11,000,000 for the fiscal year ending June 30, 1975, for grants under this section for communicable and other disease control programs for tuberculosis.

(2) There is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 30, 1974, and $6,000,000 for the fiscal year ending June 30, 1975, for grants under this section for communicable and other disease control programs for measles.

(3) There is authorized to be appropriated $23,000,000 for the fiscal year ending June 30, 1973, $23,000,000 for the fiscal year ending June 30, 1974, and $23,000,000 for the fiscal year ending June 30, 1975, for grants under this section for communicable and other disease control programs other than communicable and other disease control programs for which appropriations are authorized by paragraph (1) or (2). There is authorized to be appropriated for fiscal year 1976 $20,000,000 for grants under this section for communicable and other disease control programs for diseases borne by rodents.

(4) Not to exceed 50 per centum of the amount appropriated for any fiscal year under any of the preceding paragraphs of this subsection may be used by the Secretary for grants for such fiscal year under (A) programs for which appropriations are authorized under any one or more of the other paragraphs of this subsection if the Secretary determines that such use will better carry out the purposes of this section, and (B) section 247c of this title.

(e) Emergency plan development; authorization of appropriations.

The Secretary shall develop a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under his jurisdiction may be effectively utilized to meet epidemics, of, or other health emergencies involving, any disease referred to in subsection (h) (1) of this section. There is authorized to be appropriated to the Secretary $5,000,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, and $5,000,000 for the fiscal year ending June 30, 1975, for costs incurred in utilizing such resources in accordance with such plan.

(f) Conditional limitation on use of funds.

(1) Except as provided in section 247c(g) of this title, no funds appropriated under any provision of this chapter other than subsection (d) of this section may be used to make grants in any fiscal year for communicable and other disease control programs if (A) grants for such programs are authorized by this section, and (B) all the funds authorized to be appropriated under that subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(2) No funds appropriated under any provision of this chapter other than subsection (e) of this section may be used in any fiscal year for costs incurred in utilizing resources of the Service in accordance with a plan developed in accordance with that subsection if all the funds authorized to be appropriated under that subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(g) Annual report.

The Secretary shall submit to the President for submission to the Congress on January 1 of each year a report (1) on the effectiveness of all Federal and other public and private activities in preventing and controlling the diseases referred to in subsection (h) (1) of this section, (2) on the extent of the problems presented by such diseases, (3) on the effectiveness of the activities, assisted under grants under this section, in preventing and controlling such diseases, and (4) setting forth a plan for the coming year for the prevention and control of such diseases.

(h) Definitions.

For the purposes of this section:

(1) The term "communicable and other disease control program" means a program which is designed and conducted so as to contribute to national protection against diabetes mellitus, Rh disease, and diseases borne by rodents and tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, whooping cough, or other communicable diseases (other than venereal disease) which are transmitted from State to State, are amenable to reduction, and are determined by the Secretary to

be of national significance. Such term includes vaccination programs, laboratory services, and studies to determine the communicable and other disease control needs of States and political subdivisions of States and the means of best meeting such needs.

(2) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(i) Use of funds.

Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this chapter) and which are available for the conduct of communicable and other disease control programs from being used in connection with programs assisted through grants under this section. (As amended Sept. 30, 1972, Pub. L. 92–449, title I, § 101, 86 Stat. 748; July 23, 1974, Pub. L. 93–354, § 4, 88 Stat. 376; July 29, 1975, Pub. L. 94–63, title VI, § 601, 89 Stat. 346.)

AMENDMENTS

1975—Subsec. (d)(3). Pub. L. 94–63, § 601(b), added authorization of appropriation for fiscal year 1976.

Subsec. (h)(1). Pub. L. 94–63, § 601(a), added reference to diseases borne by rodents.

1974—Subsec. (a). Pub. L. 93–354, § 4(1)–(3), substituted "communicable and other disease control" for "communicable disease control", "communicable and other diseases" for "communicable diseases", and "communicable and other disease control program" for "communicable disease program".

Subsec. (b)(2)(C). Pub. L. 93–354, § 4(1), (4), substituted "communicable or other disease" for "communicable disease" in cl. (I) and "communicable and other disease control" for "communicable disease control" in cl. (II).

Subsec. (b)(3). Pub. L. 93–354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

Subsec. (d). Pub. L. 93–354, § 4(1), substituted "communicable and other disease control" for "communicable disease control" in pars. (1), (2), and (3).

Subsec. (f)(1). Pub. L. 93–354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

Subsec. (h)(1). Pub. L. 93–354, § 4(1), (5), substituted "communicable and other disease control" for "communicable disease control" in two places and inserted reference to diabetes mellitus.

Subsec. (i). Pub. L. 93–354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

1972—Subsec. (a), Pub. L. 92–449 substituted provision for grants by the Secretary in consultation with the State health authority to agencies and political subdivisions of States, for former provision for grants by the Secretary with the approval of the State health authority to political subdivisions or instrumentalities of States, incorporated existing provisions in provision designated as cl. (1), inserting therein", in the area served by the applicant for the grant,", substituted a cl. (2) reading "design of the applicant's communicable disease program to determine its effectiveness", for former provision reading "levels of performance in preventing and controling such diseases", struck out appropriations authorization of $75,000,000 and $90,000,000 for fiscal years ending June 30, 1971, and 1972, now covered for subsequent years in subsec. (d), and struck out provision for use of grants to meet cost of studies to determine the control needs of communities and the means of best meeting such needs, now covered in subsec. (h)(1) of this section.

Subsec. (b). Pub. L. 92–449 substituted provisions of par. (1) respecting applications for grants, submission, approval, form, and content of applications; par. (2) respecting application requirements; and par. (3) incorporating former subsec. (g) provisions respecting consent of individuals for former definitions provision now incorporated in subsect. (h) of this section.

Subsec. (c). Pub. L. 92–449 designated existing provisions as par. (1) and among minor punctuation changes inserted after "Payments" the words "under grants"; and redesignated former subsec. (d) as par. (2), inserted after "officer or employee" the words "of the Government", substituted "in detailing the personnel" for "personal services", and deleted provision that the reduced amount shall, for purposes of subsec. (c), be deemed to have been paid to the agency.

Subsec. (d). Pub. L. 92–449 substituted provisions respecting authorization of appropriations and limitation on use of funds, for former provisions respecting grant reduction, now covered in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 92–449 substituted provisions for emergency plan development and authorization of appropriations, for use of funds provisions now incorporated in subsec. (i) of this section.

Subsec. (f). Pub. L. 92–449 substituted provisions respecting conditional limitation on use of funds, for former provisions for an annual report, now covered in subsec. (g) of this section.

Subsec. (g). Pub. L. 92–449 incorporated former subsec. (f) provisions in the introductory text and cl. (3), prescribed a January 1 submission date, and added provisions of cls. (1), (2), and (4). Former subsec. (g) consent of individuals provision respecting communicable disease control and vaccination assistance now covered in subsec. (b)(3) of this section and section 247c(h) of this title.

Subsec. (h). Pub. L. 92–449 redesignated former subsec. (b) as (h), substituted in introductory text "this section" for "this subsection", and in par. (1) deleted "venereal disease" following "tuberculosis,", inserted "(other than venereal disease)" following "other communicable diseases", and included in definition of "communicable disease control program" vaccination programs, laboratory services, and control studies.

Subsec. (i). Pub. L. 92–449 redesignated former subsec. (e) as (i), inserted reference to agency of a State, and substituted "under provisions of Federal law (other than this chapter)" for "under other provisions of this chapter or other Federal law".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 608 of Pub. L. 94–63 provided that: "Except as may otherwise be specifically provided, the amendments made by this title [enacting sections 300c–21 and 300c–22 of this title, amending this section, and enacting provisions set out as notes under sections 289, 289k–2, and 1395x of this title] and by titles I [amending section 246 of this title and enacting provisions set out as notes under section 240 of this title], II [enacting sections 300a–6a and 300a–8 of this title, amending sections 300 and 300a–1 to 300a–4 of this title, repealing section 3505c of this title, and enacting provision set out as a note under section 300 of this title], III [enacting sections 2689 to 2689aa of this title, amending sections 2691 and 2693 to 2696 of this title, and enacting provisions set out as notes under section 2689 of this title], IV [amending sections 218 and 247d of this title and enacting provision set out as a note under section 247d of this title], and V [enacting section 254c of this title and amending section 246 of this title] of this Act shall take effect July 1, 1975. The amendments made by this title and by such titles to the provisions of law amended by this title and by such titles are made to such provisions as amended by title VII of this Act [amending sections 246, 247d, 300, 300a–1 to 300a–3 of this title and former sections 2681, 2687, 2688a, 2688d, 2688j–1, 2688j–2, 2688*l*, 2688*l*–1, 2688n–1, 2688o and 2688u of this title]."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 102 of Pub. L. 92–449 provided that: "The amendment made by section 101 of this title [to this section] shall apply to grants made under section 317 of the Public Health Service Act [this section] after June 30, 1972, except that subsection (d) of such section as amended by section 101 [subsec. (d) of this section] shall

take effect on the date of enactment of this Act [Sept. 30, 1972]."

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92-449 provided that: "This Act [which enacted section 247c and amended sections 247b and 300(c) of this title and enacted provisions set out as notes under section 247c of this title] may be cited as the 'Communicable Disease Control Amendments Act of 1972'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 247c of this title.

§ 247c. Venereal disease prevention and control projects and programs.

(a) Technical assistance.

The Secretary may provide technical assistance to appropriate public authorities and scientific institutions for their research, training, and public health programs for the prevention and control of venereal disease.

(b) Research, demonstration, and training projects; authorization of appropriations.

(1) The Secretary is authorized to make grants to States, political subdivisions of States, and any other public or nonprofit private entity for projects for the conduct of research, demonstrations, and training for the prevention and control of venereal disease.

(2) For the purpose of carrying out this subsection, there is authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(c) Program grants to States; authorization of appropriations; "State" defined; State plan requirements, approval by Secretary; State allotments, limitation; unobligated funds; reallotment; amount of grant, limitation; payments.

(1) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years, to enable the Secretary to make grants to State health authorities to assist the States in establishing and maintaining adequate public health programs for the diagnosis and treatment of venereal disease. For purposes of this subsection, the term "State" means each of the several States of the United States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico.

(2) Any State desiring to receive a grant under this subsection shall submit to the Secretary a State plan for a public health program for the diagnosis and treatment of venereal disease. Each State plan shall—

(A) provide for the administration or supervision of administration of the State plan by the State health authority;

(B) set forth the policies and procedures to be followed in the expenditure of the funds paid to the State under this subsection;

(C) provide that the public health services furnished under the State plan will include the provision of Statewide laboratory services (including dark field microscope techniques for the diagnosis of both gonorrhea and syphilis), which services will be provided in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

(D) contain or be supported by assurances satisfactory to the Secretary that (i) not less than 70 per centum of the funds paid to the State under this subsection will be used to provide and strengthen public health services in its political subdivisions for the diagnosis and treatment of venereal disease; (ii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided under this subsection and will not supplant any non-Federal funds which would otherwise be available for such purposes; and (iii) the plan is compatible with the total health program of the State;

(E) provide that the State health authority will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection, and submit to the Secretary appropriate modifications thereof;

(F) provide that the State health authority will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(G) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection; and

(H) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

The Secretary shall approve any State plan and any modification thereof which meets the requirements of this paragraph.

(3)(A) Grants under this subsection shall be made from allotments to States made in accordance with this paragraph. For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated under paragraph (1) for such year among the States on the basis of the incidence of venereal disease in, and the population of, the respective States; except that no State's allotment shall be less than $75,000 for any fiscal year.

(B) Any amount allotted to a State (other than the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico) under subparagraph (A) for a fiscal year and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States, which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subsection, and any amount so reallotted to a State shall be in addition to the

amounts allotted and available to the States for the same period. Any amount allotted under subparagraph (A) to the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Commonwealth of Puerto Rico for a fiscal year and remaining unobligated at the end of such year shall remain available to it for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purposes for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such named States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subsection, and any amount so reallotted to any such named State shall be in addition to any other amounts allotted and available to it for the same period.

(4) The amount of any grant under this subsection for public health programs under an approved State plan shall be detemined by the Secretary, except that no grant for any such program may exceed 90 per centum of its cost (as determined under regulations of the Secretary). Payments under grants under this subsection shall be made from time to time in advance on the basis of estimates by the Secretary or by way of reimbursement, with necessary adjustments on account of previous underpayments or overpayments.

(d) Project grants to States; authorization of appropriations.

(1) The Secretary is authorized to make project grants to States and, in consultation with the State health authority, to political subdivisions of States, for—

(A) venereal disease surveillance activities, including the reporting, screening, and followup of diagnostic tests for, and diagnosed cases of, venereal disease;

(B) casefinding and case followup activities respecting venereal disease, including contact tracing of infectious cases of venereal disease;

(C) interstate epidemiologic referral and followup activities respecting venereal disease;

(D) professional and public venereal disease education activities; and

(E) such special studies or demonstrations to evaluate or test venereal disease control as may be prescribed by the Secretary.

(2) For the purpose of carrying out this subsection, there is authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

(e) Terms and conditions; payments; recordkeeping; audit; grant reduction; information disclosure.

(1) Grants made under subsection (b) or (d) of this section shall be made on such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary.

(2) Each recipient of a grant under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant was given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(3) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of grants under this section that are pertinent to such grants.

(4) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies or equipment furnished to such recipient and by the amount of pay, allowances, travel expenses, and any other costs in connection with the detail of an officer or employee of the United States to the recipient when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based; and, in the case of a grant under subsection (c) of this section, such amount shall be deemed a part of the grant to such recipient and shall, for the purposes of that subsection, be deemed to have been paid to such recipient.

(5) All information obtained in connection with the examination, care, or treatment of any individual under any program which is being carried out with a grant made under this section shall not, without such individual's consent, be disclosed except as may be necessary to provide service to him. Information derived from any such program may be disclosed—

(A) in summary, statistical, or other form, or

(B) for clinical or research purposes,

but only if the identity of the individuals diagnosed or provided care or treatment under such program is not disclosed.

(f) Conditional limitation on use of funds.

Except as provided in section 247b(d)(4) of this title, no funds appropriated under any provision of this chapter other than this section may be used to make grants in any fiscal year for programs or projects respecting venereal disease if (1) grants for such programs or projects are authorized by this section, and (2) all the funds authorized to be appropriated under this section for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(g) Limitations on section 247b grants.

Not to exceed 50 per centum of the amounts appropriated for any fiscal year under subsections (b), (c), and (d) of this section may be used by the Secretary for grants for such fiscal year under section 247b of this title.

(h) Consent of individuals.

Nothing in this section shall be construed to require any State or any political subdivision of a State to have a venereal disease program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward of his treated under such a program. (July 1, 1944, ch. 373, title III, § 318, as added Sept. 30, 1972, Pub. L. 92–449, title II, § 203, 86 Stat. 751.)

CODIFICATION

A prior section 247c. act July 1, 1944, ch. 373 title III, § 318, as added Aug. 18, 1964, Pub. L. 88–443, § 2, 78 Stat. 447, which related to grants for assisting in the areawide planning of health and related facilities, was repealed by Pub. L. 89–749, § 6, Nov. 3, 1966, 80 Stat. 1190 eff. July 1, 1967.

SHORT TITLE

Section 201 of Pub. L. 92–449 provided that: "This title [which enacted this section and provisions set out as notes under this section] may be cited as the 'National Venereal Disease Prevention and Control Act'."

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Section 202 of Pub. L. 92–449 provided that:

"(a) The Congress finds and declares that—

"(1) the number or reported cases of venereal disease has reached epidemic proportions in the United States;

"(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those treated by physicians;

"(3) the incidence of venereal disease is particularly high among individuals in the 20–24 age group, and in metropolitan areas;

"(4) venereal disease accounts for needless deaths and blindness, and crippling conditions;

"(5) the number of cases of congenital syphilis, a preventable disease, in infants under one year of age increased by 33⅓ per centum between 1970 and 1971;

"(6) health education programs in schools and through the mass media may prevent a substantial portion of the venereal disease problem; and

"(7) medical authorities have no successful vaccine for syphilis or gonorrhea and no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females.

"(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act [this chapter] to establish a national program for the prevention and control of venereal disease."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 247b of this title.

§ 247d. Migrant health centers.

(a) Definitions.

For purposes of this section:

(1) The term "migrant health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

(A) primary health services,

(B) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,

(C) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,

(D) environmental health services, including, as may be appropriate for particular centers, the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health,

(E) as may be appropriate for particular centers, infectious and parasitic disease screening and control,

(F) as may be appropriate for particular centers, accident prevention programs, including prevention of excessive pesticide exposure, and

(G) information on the availability and proper use of health services,

for migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, within the area it serves (referred to in this section as a "catchment area").

(2) The term "migratory agricultural worker" means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months, and who establishes for the purposes of such employment a temporary abode.

(3) The term "seasonal agricultural workers[1]" means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

(4) The term "agriculture" means farming in all its branches, including—

(A) cultivation and tillage of the soil,

(B) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land, and

(C) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in subparagraph (B).

(5) The term "high impact area" means a health service area or other area which has not less than six thousand migratory agricultural workers and seasonal agricultural workers residing within its boundaries for more than two months in any calendar year. In computing the number of workers residing in an area, there shall be included as workers the members of the families of such workers.

(6) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

[1] So in original. Probably should be "worker".

(F) preventive dental services.

(7) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

(F) dental services;

(G) vision services;

(H) allied health services;

(I) pharmaceutical services;

(J) therapeutic radiologic services;

(K) public health services (including nutrition education and social services);

(L) health education services; and

(M) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a migrant health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(b) Priority areas for project and program assistance; assignment and determination of priorities; approval of application for grant to area without migratory agricultural workers.

(1) The Secretary shall assign to high impact areas and any other areas (where appropriate) priorities for the provision of assistance under this section to projects and programs in such areas. The highest priorities for such assistance shall be assigned to areas in which reside the greatest number of migratory agricultural workers and the members of their families for the longest period of time.

(2) No application for a grant under subsection (c) or (d) of this section for a project in an area which has no migratory agricultural workers may be approved unless grants have been provided for all approved applications under such subsections for projects in areas with migratory agricultural workers.

(c) Grants pursuant to assigned priorities to public and nonprofit private entities for projects to plan and develop centers; costs includable and criteria for grants; grants or contracts with public and nonprofit private entities for projects to plan and develop programs in areas without centers and specified migratory population; scope of programs for grants or contracts; number of grants or contracts; determination of amount of grants.

(1)(A) The Secretary may, in accordance with the priorities assigned under subsection (b)(1) of this section, make grants to public and nonprofit private entities for projects to plan and develop migrant health centers which will serve migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, in high impact areas. A project for which a grant may be made under this subparagraph may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and the costs of providing training related to the management of migrant health center programs, and shall include—

(i) an assessment of the need that the workers (and the members of the families of such workers) proposed to be served by the migrant health center for which the project is undertaken have for primary health services, supplemental health services, and environmental health services;

(ii) the design of a migrant health center program for such workers and the members of their families, based on such assessment;

(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(iv) initiation and encouragement of continuing community involvement in the development and operation of the project.

(B) The Secretary may make grants to or enter into contracts with public and nonprofit private entities for projects to plan and develop programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii)) to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) Not more than two grants may be made under paragraph (1)(A) for the same project, and if a grant or contract is made or entered into under paragraph (1)(B) for a project, no other grant or contract under that paragraph may be made or entered into for the project.

(3) The amount of any grant made under paragraph (1) for any project shall be determined by the Secretary.

(d) Grants pursuant to assigned priorities to public and nonprofit private centers and related entities functioning without center determination for costs of operation; grants and contracts with public and nonprofit private entities for projects for operation of programs in areas without centers and specified migratory population; scope of programs for grants and contracts; costs includable for grants or contracts; determination of amount of grants.

(1)(A) The Secretary may, in accordance with priorities assigned under subsection (b)(1) of this section, make grants for the costs of operation of public and nonprofit private migrant health centers in high impact areas.

(B) The Secretary may, in accordance with priorities assigned under subsection (b)(1) of this section, make grants for the costs of the operation of public and nonprofit entities which intend to become migrant health centers, which provide health services in high impact areas to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, but with respect to which he is unable to make each of the determinations required by subsection (f)(2) of this section. Not more than two grants may be made under this subparagraph for any entity.

(C) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the operation of programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii)) to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and the members of their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) The costs for which a grant may be made under paragraph (1)(A) or (1)(B) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans); and the costs for which a grant or contract may be made under paragraph (1) may include the costs of providing training related to the provision of primary health services, supplemental health services, and environmental health services, and to the management of migrant health center programs.

(3) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e) Contracts with public and private entities for implementation and enforcement of environmental health standards and projects and studies related to environmental health hazard problems.

The Secretary may enter into contracts with public and private entities to—

(1) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migrant labor camps and applicable Federal and State pesticide control standards; and

(2) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, pesticide hazards, and other environmental health hazards to which migratory agricultural workers, seasonal agricultural workers, and members of their families are exposed.

(f) Approval of application as prerequisite for grant or contract; form and manner of submission and contents of application; determination of entity as center as prerequisite for approval of application; criteria for determination; priorities for applications; nonapplicability of statutory provisions to contracts.

(1) No grant may be made under subsection (c) or (d) of this section and no contract may be entered into under subsection (c)(1)(B), (d)(1)(C), or (e) of this section unless an application therefore[1] is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant or contract which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40.

(2) The Secretary may not approve an application for a grant under subsection (d)(1)(A) of this section unless the Secretary determines that the entity for which the application is submitted is a migrant health center (within the meaning of subsection (a)(1) of this section) and that—

(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations of the Secretary, for (i) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under subchapter XIX of

[1] So in original.

chapter 7 of this title for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under subchapter XVIII of chapter 7 of this title, to medical assistance under a State plan approved under subchapter XIX of chapter 7 of this title, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;

(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1395x(z) of this title, and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, in the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(3) In considering applications for grants and contracts under subsection (c) or (d)(1)(C) of this section, the Secretary shall give priority to applications submitted by community-based organizations which are representative of the populations to be served through the projects, programs, or centers to be assisted by such grants or contracts.

(4) Contracts may be entered into under this section without regard to section 529 of Title 31 and section 5 of Title 41.

(g) Technical and other nonfinancial assistance for centers or public or private nonprofit entities operating as centers without determination of status.

The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any migrant health center or to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a migrant health center, and in meeting the requirements of subsection (f)(2) of this section.

(h) Authorization of appropriations; availability of funds for grants and contracts.

(1) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (c)(1) of this section $4,000,000 for fiscal year 1976, and $4,000,000 for fiscal year 1977. Of the funds appropriated under this paragraph for fiscal year 1976, not more than 30 per centum of such funds may be made available for grants and contracts under subsection (c)(1)(B) of this section, and of the funds appropriated under this paragraph for the next fiscal year, not more than 25 per centum of such funds may be made available for grants and contracts under such subsection.

(2) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (d)(1) of this section (other than for payments under such grants and contracts for the

provision of inpatient and outpatient hospital services) and for payments pursuant to contracts under subsection (e) of this section, $30,000,000 for fiscal year 1976, and $35,000,000 for fiscal year 1977. Of the funds appropriated under the first sentence for fiscal year 1976, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of 30 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section. Of the funds appropriated under the first sentence for fiscal year 1977, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of 25 percentum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section which received grants under this section for the fiscal year ending June 30, 1975. Of the funds appropriated under this paragraph for any fiscal year, not more than 10 per centum of such funds may be made available for contracts under subsection (e) of this section.

(3) There are authorized to be appropriated for payments under grants and contracts under subsection (d)(1) of this section for the provision of inpatient and outpatient hospital services $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977. (July 1, 1944, ch. 373, title III, § 319, formerly § 310, as added Sept. 25, 1962, Pub. L. 87–692, 76 Stat. 592, and amended Aug. 5, 1965, Pub. L. 89–109, § 3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90–574, title II, § 201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91–209, 84 Stat. 52; June 18, 1973, Pub. L. 93–45, title I, § 105, 87 Stat. 91; renumbered July 23, 1974, Pub. L. 93–353, title I, § 102(d), 88 Stat. 362; July 29, 1975, Pub. L. 94–63, title IV, § 401(a), title VII, § 701(c), 89 Stat. 334, 352.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (f)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 242h of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, §§ 401(a), 701(c), designated existing provision as subsec. (a) and, as so designated, substituted provisions defining specified terms, for provisions setting forth health services for domestic agricultural migrants and authorizing appropriations from the fiscal year ending June 30, 1966 through the fiscal year ending June 30, 1975 for the implementation of programs and projects.

Subsecs. (b)–(h). Pub. L. 94–63, § 401(a), added subsecs. (b) to (h).

1973—Pub. L. 93–45 authorized appropriations of $26,750,000 for fiscal year ending June 30, 1974.

1970—Pub. L. 91–209 substituted "Secretary" for "Surgeon General", authorized appropriations of $20,000,000, $25,000,000, and $30,000,000 for the fiscal years ending June 3, 1971, June 30, 1972, and June 30, 1973, respectively, made the bringing about of continuity in health services one of the objects of the Secretary's grants for special projects, inserted parenthetical reference to allied health professions personnel, authorized the Secretary to provide funds towards health services for those performing seasonal agricultural services, and provided for the representation of all elements of the migratory worker population, whose health needs are to be met, in the development of health programs and that such persons be given an opportunity to participate in the implementation of such programs.

1968—Pub. L. 90–574 added provisions authorizing appropriations of $9,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

1965—Pub. L. 89–109 substituted "not to exceed $7,000,000 for the first year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, and $9,000,000 for the fiscal year ending June 30, 1968" for "for the fiscal year ending June 30, 1963, the fiscal year ending June 30, 1964, and the fiscal year ending June 30, 1965, such sums, not to exceed $3,000,000 for any year, as may be necessary", and inserted "including necessary hospital care, and" in cl. (1)(ii).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 401(a) of Pub. L. 94–63, generally revising and redesignating provisions relating to migrant health centers, effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SHORT TITLE OF 1965 AMENDMENT

Section 1 of Pub. L. 89–109 provided: "That this Act [amending this section and sections 246, 247a and 247b of this title] may be cited as the 'Community Health Services Extension Amendments of 1965'."

SHORT TITLE

Section 319 of act July 1, 1944, formerly section 310, as added by Pub. L. 87–692, amended and renumbered, is popularly known as the "Migrant Health Act".

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

STUDY OF HOUSING CONDITIONS OF AGRICULTURAL MIGRATORY WORKERS; CONSULTATIONS; SUBMISSION OF REPORT TO CONGRESSIONAL COMMITTEES

Section 401(c) of Pub. L. 94–63 provided that:

"(1) The Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the 'Secretary') shall conduct or arrange for the conduct of a study of—

"(A) the quality of housing which is available to agricultural migratory workers in the United States during the period of their employment in seasonal agricultural activities while away from their permanent abodes;

"(B) the effect on the health of such workers of deficiencies in their housing conditions during such period; and

"(C) Federal, State, and local government standards respecting housing conditions for such workers during such period and the adequacy of the enforcement of such standards.

In conducting or arranging for the conduct of such study, the Secretary shall consult with the Secretary of Housing and Urban Development.

"(2) Such study shall be completed and a report detailing the findings of the study and the recommendations of the Secretary for Federal action (including legislation) respecting such housing conditions shall be submitted to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate within eighteen months of the date of the enactment of the first Act making appropriations for such study."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 218, 300e–14a of this title.

PART C.—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

§ 250a. Same; transfer of appropriations.

There may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions. (Pub. L. 92–77, title II, § 201, Aug. 10, 1971, 85 Stat. 253; Pub. L. 92–544, title II, § 201, Oct. 25, 1972, 86 Stat. 1116; Pub. L. 93–162, title II, § 201, Nov. 27, 1973, 87 Stat. 643; Pub. L. 93–433, title II, § 201, Oct. 5, 1974, 88 Stat. 1194; Pub. L. 94–121, title II, § 201, Oct. 21, 1975, 89 Stat. 620.)

§ 253. Medical services to Coast Guard, Coast and Geodetic Survey, and Public Health Service; examination of personnel of Service assigned to Coast Guard or Coast and Geodetic Survey.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 253a. Medical services to retired personnel of Coast and Geodetic Survey; treatment of dependents of personnel; per diem hospitalization charges; identification of persons eligible for treatment.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 253b. Former Lighthouse Service employees; medical service eligibility.

Subject to regulations of the President, lightkeepers, assistant lightkeepers, and officers and crews of vessels of the former Lighthouse Service, including any such persons who subsequent to June 30, 1939, were involuntarily assigned to other civilian duty in the Coast Guard, who were entitled to medical relief at hospitals and other stations of the Public Health Service prior to July 1, 1944, and who retired under the provisions of section 763 of Title 33, shall be entitled to medical, surgical, and dental treatment and hospitalization at hospitals and other stations of the Public Health Service. (Pub. L. 93–353, title I, § 108(a), July 23, 1974, 88 Stat. 371.)

CODIFICATION

Section was enacted as a part of Health Services Research, Health Statistics, and Medical Libraries Act of 1974, and as a part of Health Services Research and Evaluation and Health Statistics Act of 1974, and not as a part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section 108(b) of Pub. L. 93–353 provided that: "Subsection (a) [this section] shall be effective from December 28, 1973."

§ 254b. National Health Service Corps.

(a) Establishment; assignment of personnel; statement of purpose.

There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the "Corps") which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages.

(b) Powers of Secretary; procedure for assignment of personnel; utilization of appropriate techniques, facilities, and organizational forms, and maximization of care and services by personnel; establishment of fees; collection and deposit of payments; waiver of collection.

(1) The Secretary shall (A) designate those areas which he determines have critical health manpower shortages, (B) provide assistance to persons seeking assignment of Corps personnel to such designated areas to provide under this section health care and services for persons residing in such areas, and (C) conduct such information programs in such designated areas as may be necessary to inform the public and private health entities serving those areas of the assistance available under this section.

(2)(A) The Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for persons residing in an area designated by the Secretary under paragraph (1) if—

(i) the State health agency of each State in which such area is located or the local public health agency or any other public or nonprofit private health entity in such area requests such assignment, and

(ii) the (I) local government of such area, and (II) the State and district medical, dental, or other appropriate health societies (as the case may be), certify to the Secretary that such assignment of Corps personnel is needed for such area.

If with respect to any proposed assignment of Corps personnel to an area the requirements of clauses (i) and (ii) of the preceding sentence are met except for the certification by the State and district medical, dental, or other appropriate health societies required by clause (ii) and if the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, the Secretary may, after consultation with appropriate medical, dental, or other health societies, assign such personnel to such area. Corps personnel shall be assigned under this section on the basis of the extent of an area's need for health care and services and without regard to the ability of the residents of an area to pay for health care and services.

(B) In providing health care and services under this section, Corps personnel shall utilize the techniques, facilities, and organizational forms most appropriate for the area and shall, to the maximum extent feasible, provide such care and services (i) to all persons in such area regardless of the ability of such persons to pay for the care and services, and (ii) in connection with (I) direct health care programs carried out by the Service; (II) any direct health care program carried out in whole or in part with Federal financial assistance; or (III) any other health care activity which is in furtherance of the purposes of this section.

(C) Any person who receives health care or services provided under this section shall be charged for such care or service on a fee-for-service or other basis at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost

of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge.

(D) (i) The Secretary shall require as a condition to the approval of an application for the assignment of Corps personnel that the entity which submits the application enter into an appropriate arrangement with the Secretary under which the entity shall take such action as may be reasonable for the collection of payments for health services provided by Corps personnel, including if a Federal agency, an agency of a State or local government, or other third party would be responsible for payment of all or part of the cost of such health services if it had not been provided by Corps personnel under this section, the collection, on a fee-for-service or other basis, from such agency or third party the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps personnel shall be considered as being provided by private practitioners).

(ii) Any funds collected by an entity under clause (i) shall be paid to the Secretary for deposit in the Treasury as miscellaneous receipts. Such funds shall be disregarded in determining (I) the amounts of appropriations to be requested under subsection (h) of this section, and (II) the amounts to be made available from appropriations under such subsection to carry out this section. The Secretary may waive in whole or in part the application of the requirement of the first sentence to an entity if he determines that compliance with such requirement would unduly limit the ability of the entity to maintain the quality or level of health services provided by Corps personnel.

(c) Assigned personnel not included within personnel quota of Department of Health, Education, and Welfare; reimbursement of applicants.

Commissioned officers and other personnel of the Corps assigned to areas designated under subsection (b) of this section shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded. The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

(d) Utilization of area health facilities; arrangements by Secretary; use and procurement of equipment, supplies, and temporary services of nurses and allied health professionals; grants for purchase of supplies and equipment; application; number and amount of grants; sales or transfers of supplies and equipment upon expiration of assignment of personnel; fair market value for sales; recruitment of personnel.

(1) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Corps in providing care and services under subsection (b) of this section to utilize the health facilities of the area to be served, except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability in such area of care and services by Corps personnel, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area but only to the extent that such utilization will not impair the delivery of care and treatment through such hospital or facility to persons who are entitled to care and treatment through such hospital or facility. If there are no health facilities in or serving such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services. In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals.

(2) The Secretary may make a grant to any applicant with an approved application for the assignment of Corps personnel to assist the entity in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and other expenses related to the provision of health services. Not more than one grant may be made with respect to any one health manpower shortage area designated under subsection (b) (1) of this section. No grant may be made under this paragraph unless an application therefor is submitted to, and approved by, the Secretary. The amount of any grant shall be determined by the Secretary, except that no grant may exceed $25,000.

(3) Upon the expiration of the assignment of Corps personnel to provide health services for the residents of a critical health manpower shortage area, the Secretary (notwithstanding any other provision of law) may (A) sell (at fair market value (as determined by the Secretary)) to the entity which submitted the last approved application for the assignment of Corps personnel for such area equipment and supplies of the United States utilized by such personnel in providing health services or (B) if the Secretary determines that the entity is financially unable to purchase such supplies or equipment at their fair market value, sell to such entity such supplies or equipment at less than fair market value or transfer such supplies or equipment to the entity.

(4) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such

programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

* * * * *

(f) Functions of Secretary.

It shall be the function of the Secretary—

(1) to establish guidelines with respect to how the Corps shall be utilized in areas designated under this section;

(2) to select personnel of the Corps for assignment to the areas designated under this section; and

(3) to determine which communities or areas may receive assistance under this section taking into consideration—

* * * * *

(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Corps in providing effective health services to residents of the community or area;

* * * * *

(g) Annual report to Congress; contents.

The Secretary shall report to Congress no later than May 15 of each year—

(1) the number of areas designated under subsection (b) of this section in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b) of this section, the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application.

(h) Authorization of appropriations.

To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; $16,000,000 for the fiscal year ending June 30, 1975; and $30,000,000 for the fiscal year ending June 30, 1976.

(i) Definitions.

For purposes of this section, the term "State" includes Guam, American Samoa, and the Trust Territory of the Pacific Islands. (As amended Nov. 18, 1971, Pub. L. 92–157, title II, § 203, 85 Stat. 462; Oct. 27, 1972, Pub. L. 92–585, § 2, 86 Stat. 1290; July 29, 1975, Pub. L. 94–63, title VIII, §§ 801–803, 89 Stat. 353, 354.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 94–63, § 803, in subpar. (C) struck out provisions relating to collection and deposit of fees by the Secretary and added subpar. (D).

Subsec. (d). Pub. L. 94–63, § 802, added pars. (2) and (3). Former par. (2) redesignated (4).

Subsec. (h). Pub. L. 94–63, § 801, added provisions authorizing appropriations for fiscal years ending June 30, 1975 and June 30, 1976.

1972—Subsec. (a) Pub. L. 92–585, § 2(a), substituted provisions establishing the National Health Service Corps and setting forth the components of the Corps and its purposes, for provisions requiring an identifiable administrative unit within the Public Health Service to improve the delivery of health services to persons living in areas where health personnel and services are inadequate to meet the health needs of the residents and authorizing the Secretary to use his best efforts to provide for the assignment of Public Health Service physicians to certain counties.

Subsec. (b). Pub. L. 92–585, § 2(b), substituted provisions setting forth the powers of the Secretary in carrying out his functions in relation to the assignment of personnel to alleviate health manpower shortages, setting forth the procedure for the assignment of such personnel, requiring Corps personnel to utilize techniques, facilities, and organizational forms most appropriate to the particular area and to maximize care and services so provided, and authorizing the Secretary to promulgate regulations establishing rates for care or services and for the collection of such charges, for provisions setting forth the procedure for the assignment of commissioned officers and other personnel of the Service to provide health care and services, setting forth the scope of care and services so provided, and setting forth the procedure for the establishment of rates for services and the collection of such charges.

Subsec. (c). Pub. L. 92–585, § 2(c), substituted "Corps" for "Service", and added provisions relating to the reimbursement by the Secretary of applicants.

Subsec. (d). Pub. L. 92–585, § 2(d), redesignated existing provisions as subsec. (d)(1), and, as so redesignated, substituted "Corps in providing care and services" for "Service in providing care and services" and "If there are no health facilities in or serving such area" for "If there are no such facilities in such area", and added exception relating to the utilization of health facilities of an area being served by a hospital or other health care delivery facility of the Service and provisions authorizing the Secretary to make such arrangements as are necessary for the use of equipment and supplies of the Service, for the lease or acquisition of other equipment and supplies, and to secure the temporary services of nurses and allied health professionals, and added subsec. (d)(2).

Subsec. (f). Pub. L. 92–585, § 2(e), substituted "Corps" for "Service" in pars. (1) and (3)(B), and "personnel of the Corps" for "commissioned officers of the Service and other personnel" in par. (2).

Subsec. (g). Pub. L. 92–585, § 2(f), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 92–585, § 2 (f), (g), redesignated former subsec. (g) as (h), and, as so redesignated, authorized appropriations of $25,000,000 for the fiscal year ending June 30, 1974.

Subsec. (i). Pub. L. 92–585, § 2(h), added subsec. (i).

1971—Subsec. (a). Pub. L. 92–157 required the Secretary to provide at least one physician in the Public Health Service for each county (except counties sparsely populated) without a resident physician within a year of Nov. 18, 1971, and to report to the Congress the implementation of this requirement by such date.

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–585 provided that: "This Act [which enacted section 234 of this title, amended this section and section 294a of this title, and enacted provisions set out as a note under section 246 of this title] may be cited as the 'Emergency Health Personnel Act Amendments of 1972'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 234, 294a of this title.

§ 254c. Community health centers.

(a) Definitions.

For purposes of this section, the term "community health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

(1) primarily health services,

(2) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,

(3) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,

(4) as may be appropriate for particular centers, environmental health services, and

(5) information on the availability and proper use of health services,

for all residents of the area it serves (referred to in this section as a "catchment area").

(b) Additional definitions.

For purposes of this section:

(1) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

(F) preventive dental services.

(2) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

(F) dental services;

(G) vision services;

(H) allied health services;

(I) pharmaceutical services;

(J) therapeutic radiologic services;

(K) public health services (including nutrition education and social services);

(L) health education services; and

(M) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a community health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(3) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

(c) Grants to public and nonprofit private entities for projects to plan and develop centers; costs includable and criteria for grants; number of grants; determination of amount of grants.

(1) The Secretary may make grants to public and nonprofit private entities for projects to plan and develop community health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

(A) an assessment of the need that the population proposed to be served by the community health center for which the project is undertaken has for primary health services, supplemental health services, and environmental health services;

(B) the design of a community health center program for such population based on such assessment;

(C) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(D) initiation and encouragement of continuing community involvement in the development and operation of the project.

(2) Not more than two grants may be made under this subsection for the same project.

(3) The amount of any grant made under this subsection for any project shall be determined by the Secretary.

(d) Grants to public and nonprofit private centers and related entities functioning without center determination for costs of operation; costs includable for grants; number of grants; determination of amount of grants.

(1)(A) The Secretary may make grants for the costs of operation of public and nonprofit private community health centers which serve medically underserved populations.

(B) The Secretary may make grants for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which he is unable to make each of the determinations required by subsection (e)(2) of this section.

(2) The costs for which a grant may be made under paragraph (1) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying interest on, loans) and the costs of providing training related to the provision of primary health services, supplemental health services and environmental health services, and to the management of community health center programs.

(3) Not more than two grants may be made under paragraph (1) (B) for the same entity.

(4) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e) Approval of application as prerequisite for grant; form and manner of submission and contents of application; determination of entity as center as prerequisite for approval of application.

(1) No grant may be made under subsection (e)[1] or (d) of this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40.

(2) Except as provided in subsection (d) (1) (B) of this section, the Secretary may not approve an application for a grant under subsection (d) of this section unless the Secretary determines that the entity for which the application is submitted is a community health center (within the meaning of subsection (a) of this section) and that—

(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations prescribed by the Secretary, or (i) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under subchapter XIX of chapter 7 of this title for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under subchapter XVIII of chapter 7 of this title, to medical assistance under a State plan approved under subchapter XIX of chapter 7 of this title, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) meets at least once a month, establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;

(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1395x(z) of this title, and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate,

[1] So in original. Probably should be "(c)".

to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsible to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(f) Technical and other nonfinancial assistance for public or private nonprofit entity operating as center without determination of status.

The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a community health center, and in meeting requirements of subsection (e)(2) of this section.

(g) Authorization of appropriations.

(1) There are authorized to be appropriated for payments pursuant to grants under subsection (c) of this section $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977.

(2) There are authorized to be appropriated for payments pursuant to grants under subsection (d) of this section $215,000,000 for fiscal year 1976, and $235,000,000 for fiscal year 1977. (July 1, 1944, ch. 373, title III, § 330, as added July 29, 1975, Pub. L. 94–63, title V, § 501(a), 89 Stat. 342.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (e)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

PART E.—NARCOTICS ADDICTS AND OTHER DRUG ABUSERS

PART REFERRED TO IN D.C. CODE

This part is referred to in section 24–613 of the District of Columbia Code.

§ 257. Care and treatment.

(a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Correction Act, addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision. In carrying out this subsection, the Secretary shall establish in each hospital and other appropriate medical facility of the Service a treatment and rehabilitation program for drug addicts and other persons with drug abuse and drug dependence problems who are in the area served by such hospital or other facility; except that the requirement of this sentence shall not apply in the case of any such hospital or other facility with respect to which the Secretary determines that there is not sufficient need for such a program in such hospital or other facility.

* * * * *

(c) The Secretary may enter into agreements with the Administrator of Veterans' Affairs, the Secretary of Defense, and the head of any other department or agency of the Government under which agreements hospitals and other appropriate medical facilities of the Service may be used in treatment and rehabilitation programs provided by such department or agency for drug addicts and other persons with drug abuse and other drug dependence problems who are in areas served by such hospitals or other facilities. (As amended Mar. 21, 1972, Pub. L. 92–255, title IV, § 402, 86 Stat. 77.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–255, § 402(a), required establishment in hospitals and other appropriate medical facilities of treatment and rehabilitation programs for drug addicts and other persons with drug abuse and drug dependence problems where sufficient need for such programs exists.

Subsec. (c). Pub. L. 92–255, § 402(b), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3441 of this title.

§ 259. Convict addicts.

* * * * *

(b) Repealed. Pub. L. 92–293, § 3, May 11, 1972, 86 Stat. 136.

* * * * *

(As amended May 11, 1972, Pub. L. 92–293, § 3, 86 Stat. 136.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–293 struck out subsec. (b) which provided for the application of sections 710 to 712a, 714 to 723c and 744h of Title 18 to narcotic addicts and persons with drug abuse and drug dependence problems.

PART F.—LICENSING OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION

Subpart 1.—Biological Products

§ 262. Regulation of biological products.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 2–261 of the District of Columbia Code.

Subpart 3.—Electronic Product Radiation Control

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in title 15 section 2080.

§ 263c. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2080.

PART G.—QUARANTINE AND INSPECTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300j–9 of this title.

PART I.—NATIONAL LIBRARY OF MEDICINE

§ 276. Functions.

(a) The Secretary, through the Library and subject to the provisions of subsection (c) of this section, shall—

* * * * *

(b) The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c) The Secretary is authorized, after obtaining the advice and recommendations of the Board (established under section 277 of this title), to prescribe rules under which the Library will provide copies of its publications or materials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution. (As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(1), 85 Stat. 463.)

AMENDMENTS

1971—Pub. L. 92–157 inserted "Secretary" preceding ", through the Library" in subsec. (a), "may exchange" in subsec. (b), and "is authorized" in subsec. (c).

§ 277. Board of Regents.

(a) Establishment; composition; appointment of members; Chairman; executive secretary.

There is established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the "Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(b) Duties of Board; annual report of Secretary.

It shall be the duty of the Board to advise, consult with, and make recommendations to the Secretary on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Secretary is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(2), 85 Stat. 464.)

AMENDMENTS

1971—Pub. L. 92–157 inserted "Secretary" preceding "shall designate" in last sentence of subsec. (a), and preceding "on important matters", "shall include", and "is authorized" in subsec. (b), to correct an omission brought about by incompleteness of congressional provisions as disclosed in 1970 Amendment note, and again struck out subsec. (d) as part of section 383 of act July 1, 1944, previously struck out as part of section 373 of act July 1, 1944.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276, 279, 280b–1, 280b–2 of this title.

§ 280. Library facilities.

There are authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums authorized in this section to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all

necessary contracts, and supervise construction. (As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(3), 85 Stat. 464.)

AMENDMENTS

1971—Pub. L. 92–157 inserted "Secretary" in the phrase "selected by the Secretary".

§ 280a. Transfer of Armed Forces Medical Library.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of name note set out under this section in the main volume.

§ 280a–1. Regional branches.

(a) Whenever, the Secretary, with the advice of the Board, determines, that—

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(4), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157 inserted "Secretary" in the phrase "Whenever, the Secretary".

PART J.—ASSISTANCE TO MEDICAL LIBRARIES

§ 280b. Congressional findings and declaration of policy; authorization of appropriations.

* * * * *

(b) It is therefore the policy of this part to—

(1) assist in the training of medical librarians and other information specialists in the health sciences;

(2) assist, through grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to heal;

(3) assist in the conduct of research, investigations, and demonstrations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(4) assist in establishing, expanding, and improving the basic resources of medical libraries and related facilities;

(5) assist in the development of a national system of regional medical libraries each of which would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(6) provide financial support to biomedical scientific publications.

(c) For the purpose of grants and contracts under sections 280b–3, 280b–4, 280b–5, 280b–7, and 280b–8 of this title, there are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976. (As amended July 23, 1974, Pub. L. 93–353, title II, §§ 201(a), 202(a), 88 Stat. 371, 372.)

REFERENCES IN TEXT

Section 280b–3 of this title, referred to in subsec. (c), was repealed by Pub. L. 93–353, title II, § 202(d), July 23, 1974, 88 Stat. 372.

AMENDMENTS

1974—Subsec. (b)(1)–(7). Pub. L. 93–353, § 202(a), struck out par. (1) provisions for assistance in the construction of new, and the renovation, expansion, or rehabilitation of existing medical library facilities, and redesignated former pars. (2) to (7) as (1) to (6), respectively.

Subsec. (c). Pub. L. 93–353, § 201(a), added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 201(a) of Pub. L. 93–353 provided in part that subsec. (c) of this section shall be effective July 1, 1974.

Section 201(c) of Pub. L. 93–353 provided that: "The amendments made by section 202 [amending sections 280b(b), 280b–1, 280b–2(b), and 280b–8(b), (d) and repealing section 280b–3 of this title], 203 [amending sections 280b–4(a); 280b–5(a), (b), 280b–7, 280b–8(a), and 280b–9(a) of this title], and 204 [repealing section 280b–12 of this title] shall apply with respect to appropriations under part J of the Public Health Service Act [this part] for fiscal years beginning after June 30, 1974."

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1977

Section 205 of Pub. L. 93–353 provided that: "The authorization of appropriations provided by section 390 (c) of the Public Health Service Act [subsec. (c) of this section] is extended for the fiscal year ending June 30, 1977, in the amount authorized for the preceding fiscal years unless before June 30, 1976, Congress has passed legislation repealing this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b–4, 280b–5, 280b–7, 280b–8, 280b–9 of this title.

§ 280b–1. Definitions.

As used in this part—

(1) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto;

(2) the terms "National Medical Libraries Assistance Advisory Board" and "Board" mean the Board of Regents of the National Libary of Medicine established under section 277(a) of this title; and

(3) the term "medical library" means a library related to the sciences related to health.

(As amended July 23, 1974, Pub. L. 93–353, title II, § 202(b), 88 Stat. 372.)

AMENDMENTS

1974—Pub. L. 93–353 struck out par. (3) definitions of "construction" and "cost of construction" and redesignated former par. (4) as (3).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

§ 280b–2. National Medical Libraries Assistance Advisory Board.

* * * * *

(b) The Board shall advise and assist the Secretary in the preparation of general regulations and

with respect to policy matters arising in the administration of this part.

* * * * *

(As amended July 23, 1974, Pub. L. 93–353, title II, § 202(c), 88 Stat. 372.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–353 deleted par. (1) designation and struck out par. (2) provisions requiring Board consideration of all applications for construction grants under this part and making to the Secretary such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

§ 280b–3. Repealed. Pub. L. 93–353, title II, § 202(d), July 23, 1974, 88 Stat. 372.

Section, act July 1, 1944, ch. 373, title III, § 393, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1060, and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(a), 3, 10(d)(2), 84 Stat. 63, 64, 67, related to grants for construction of medical library facilities, providing in the subsections as follows: subsec. (a), authorization; subsec. (b), conditions prerequisite to approval; subsec. (c), factors considered in acting upon application; subsec. (d), amount and limitation of grant; subsec. (e), reservation of amount and payments; subsec. (f), computation of amount and exclusions from cost of construction; subsec. (g), recovery of funds; and subsec. (h), authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

§ 280b–4. Grants for training in medical library sciences.

(a) To carry out the purposes of section 280b(b)(1) of this title, the Secretary shall make grants—

* * * * *

(July 1, 1944, c. 373, title III, § 393, formerly § 394, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1062, and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(b), 10(d)(2)(A), 84 Stat. 63, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(a), 87 Stat. 92; renumbered and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(a), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–353, § 203(a), struck out first sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(2) of this title in amounts of $1,500,000, $1,750,000, $2,000,000, and $1,500,000 for fiscal years ending June 30, 1971, 1972, 1973, and 1974, respectively, and substituted "To carry out the purposes of section 280b(b)(1) of this title, the Secretary shall make" for "Sums made available under this section shall be utilized by the Secretary in making".

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $1,500,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b–5. Assistance for special scientific projects, and research and development in medical library science and related fields.

(a) Grants for compilation or writing of contributions relating to advancements in sciences related to health.

To carry out the purposes of section 280b(b)(2) of this title, the Secretary shall make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

(b) Grants for special projects in medical library science and related fields.

To carry out the purposes of section 280b(b)(3) of this title, the Secretary shall make grants to appropriate public or private nonprofit institutions and enter into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems and equipment for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

* * * * *

(July 1, 1944, ch. 373, title III, § 394, formerly § 395, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1062, and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(c), (d), 4(a), 5(a), 10(c)(1)(A), (B), (2)(A)–(C), (d)(2)(A), 84 Stat. 63, 64, 66, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(b), (c), 87 Stat. 92; renumbered and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(b), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–353, § 203(b)(1), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(3) of this title in amounts of $500,000 for fiscal years ending June 30, 1966, through June 30, 1973, and $95,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(2) of this title, the Secretary shall" for "Sums made available under this subsection shall be utilized by the Secretary to".

Subsec. (b). Pub. L. 93–353, § 203(b)(2), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(4) of this title in amounts of $3,000,000 for fiscal years ending June 30, 1966, through June 30, 1973, and $900,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(3) of this title, the Secretary shall make" for "Sums made available under this subsection shall be utilized by the Secretary in making" and "enter into contracts" for "entering into contracts".

1973—Subsec. (a). Pub. L. 93–45, § 107(b), authorized appropriations of $95,000 for fiscal year ending June 30, 1974, to enable the Secretary to carry out the purposes of section 280b(b)(3) of this title.

Subsec. (b). Pub. L. 93–45, § 107(c), authorized appropriations of $900,000 for fiscal year ending June 30, 1974,

to enable the Secretary to carry out the purposes of section 280b(b)(4) of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b–7. Grants for establishing, expanding, and improving basic medical library or related resources.

(a) Uses for which grants may be employed.

To carry out the purposes of section 280b(b)(4) of this title, the Secretary shall make grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (1) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (2) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (3) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment, and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (4) introduction of new technologies in medical librarianship.

(b) Computation of amount of grant; factors considered in determining scope of services provided by library; maximum amount of grant.

(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account the following factors—

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentaliy is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2) In no case shall any grant under this section to a medical library or related instrumentality for any fiscal year exceed $200,000; and grants to such medical libraries or related instrumentalities shall be in such amounts as the Secretary may by regulation prescribe with a view to asuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which Federal assistance is provided. (July 1, 1944, ch. 373, title III, § 395, formerly § 397, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1063, renumbered § 396 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(e), 6(a)(1), (2), 10(c)(3), (d)(2)(A), 84 Stat. 63, 64, 67; June 18, 1973, Pub. L. 93–45, title I, § 107d), 87 Stat. 92; renumbered § 395 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(c), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–353, § 203(c)(1)–(3), substituted "To carry out the purposes of section 280b(b)(4) of this title, the Secretary shall make" for "Sums made available under this section shall be utilized by the Secretary for making", redesignated cls. (A) to (D) as (1) to (4), redesignated subsec. (b), as so amended, as subsec. (a), and repealed former subsec. (a) provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(5) of this title in amounts of $3,500,000, $4,000,000, $4,500,000, and $2,705,000 for fiscal years ending June 30, 1971, 1972, 1973, and 1974.

Subsec. (b). Pub. L. 93–353, § 203(c)(3), redesignated former subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 93–353, § 203(c)(3), redesignated former subsec. (c) as (b)

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $2,705,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b–8. Grants for establishment of regional medical libraries.

(a) Grants to public or private nonprofit medical libraries.

To carry out the purposes of section 280b(b)(5) of this title, the Secretary, with the advice of the Board, shall make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

(b) Uses for which grants may be employed.

The uses for which grants made under this section may be employed include, but are not limited to, the following—

* * * * *

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local libraries in the geographic area served by the regional library; and

(5) planning for services and activities under this section.

(6) Repealed. Pub. L. 93–353, title II, § 202(e), July 23, 1974, 88 Stat. 372.

* * * * *

(d) Maximum amount of grants.

Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in accordance with regulations prescribed by him).

* * * * *

(July 1, 1944, ch. 373, title III, § 396, formerly § 398, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1065, renumbered § 397 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(f), 7, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(e), 87 Stat. 92; renumbered § 396 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 202(e), (f), 203(d)(1), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–353, § 203(d)(1), struck out first sentence provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(6) of this title in amounts of $3,000,000, $3,250,000, $3,500,000, and $2,902,000 for fiscal years ending June 30, 1971 through 1974, respectively, and substituted "To carry out the purposes of section 280b(b)(5) of this title, the Secretary, with the advice of the Board, shall make" for "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, to make".

Subsec. (b)(6). Pub. L. 93–353, § 202(e), struck out par. (6) which provided for use of grants for construction, renovation, rehabilitation, or expansion of physical plant considered necessary by the regional medical library to carry out its proper functions as a regional library.

Subsec. (d). Pub. L. 93–353, § 202(f), struck out first sentence provisions respecting the making of grants for construction, renovation, rehabilitation, or expansion of physical plant in the same manner and subject to the same conditions as provided for grants under section 280b–3 of this title, except that eligibility for any such grant would be determined on the basis of the construction requirements of the library so as to be able to serve as a regional medical library.

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $2,902,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280a–1, 280b of this title.

§ 280b–9. Grants to provide support for biomedical scientific publications.

(a) Purpose of grants.

To carry out the purposes of section 280b(b)(6) of this title, the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

* * * * *

(July 1, 1944, ch. 373, title III, § 397, formerly § 399, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066, renumbered § 398 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(g), 8, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(f), 87 Stat. 92; renumbered § 397 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(e), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–353, 203(e), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(7) of this title in amounts of $1,000,0000 for fiscal years ending June 30, 1966, through 1973, and $340,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(6) of this title, the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts" for "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts".

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $340,000 for fiscal year ending June 30, 1974, to enable the Secretary to carry out the purposes of section 280b(b)(7) of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

§ 280b–10. Continuing availability of appropriated funds.

Section 399 of act July 1, 1944, was renumbered 398 by Pub. L. 93–353, title II, § 204, July 23, 1974, 88 Stat. 373.

§ 280b–11. Records and audit.

Section 399a of act July 1, 1944, was renumbered 399 by Pub. L. 93–353, title II, § 204, July 23, 1974, 88 Stat. 373.

§ 280b–12. Repealed. Pub. L. 93–353, title II, § 204, July 23, 1974, 88 Stat. 373.

Section, act July 1, 1944, ch. 373, title III, § 399b, as added Mar. 13, 1970, Pub. L. 91–212, § 9, 84 Stat. 65, related to transfer of funds.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 93–353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93–353, set out as a note under section 280b of this title.

PART K.—QUALITY ASSURANCE

§ 280c. Programs to assure quality of health care.

(a) Evaluation and research respecting effectiveness, administration, and enforcement of programs; authorization of appropriations.

(1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 242b of this title.

(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $9,000,000 for

the fiscal year ending June 30, 1977, and $10,000,000 for the fiscal year ending June 30, 1978.

(b) Annual report to President and Congress.

The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report. (July 1, 1944, ch. 373, title III, § 399A, formerly § 399c, as added Dec. 29, 1973, Pub. L. 93–222, § 3, 87 Stat. 934, and renumbered July 29, 1975, Pub. L. 94–63, title VI, § 607(a), (c), 89 Stat. 351.)

SUBCHAPTER III.—NATIONAL RESEARCH INSTITUTES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300*l*–2, 300o–1, 300p–2 of this title.

PART A.—NATIONAL CANCER INSTITUTE

§ 282. Powers and duties of Surgeon General; procedure for approval of grants; limitation on amount.

(a) In carrying out the purposes of section 241 of this title with respect to cancer the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Board, shall—

(1) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(2) Coordination of researches.

Promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

(3) Technical clinical training and instruction.

Provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(4) Securement of expert advice.

Secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(5) Cooperation with State agencies.

Cooperate with State health agencies in the prevention, control, and eradication of cancer;

(6) Acquisition, use, and loan of radium.

Procure, use, and lend radium as provided in section 283 of this title.

(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this chapter for cancer research or training—

(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 283 (c) of this title, and

(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by such Board as prescribed by section 283(c) of this title.

(As amended Dec. 23, 1971, Pub. L. 92–218, §§ 3(b)(1), (2), 6(a)(2), 85 Stat. 784, 785; July 12, 1974, Pub. L. 93–348, title I, § 104(a)(3), 88 Stat. 346; July 23, 1974, Pub. L. 93–352, title I, § 102, 88 Stat. 358.)

AMENDMENTS

1974—Subsec. (a)(3)–(7). Pub. L. 93–348 substituted in par. (3) "clinical training and instruction" for "training and instruction", and struck out par. (4) providing for establishment of fellowships and redesignated former pars. (5) to (7) as pars. (4) to (6), respectively.

Subsec. (b)(1). Pub. L. 93–352, § 102(1), substituted "if the direct costs of such research and training do not exceed $35,000, but only" for "in amounts not to exceed $35,000".

Subsec. (b)(2). Pub. L. 93–352, § 102(2), substituted "if the direct costs of such research and training do not exceed $35,000, but only" for "in amounts not to exceed $35,000".

1971—Subsec. (a) Pub. L. 92–218, §§ 3(b)(2), 6(a)(2), designated existing provisions as subsec. (a) and redesignated pars. (a), (b), (c), (d), (e), (f), and (g) therein as pars. (1), (2), (3), (4), (5), (6), and (7), respectively, and substituted "National Cancer Advisory Board" for "National Cancer Advisory Council" in the introductory text.

Subsec. (b). Pub. L. 92–218, § 3(b)(1), added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92—218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SHORT TITLE OF 1974 AMENDMENT

Section 101 of Pub. L. 93–352 provided that: "This title [enacting section 289*l*–4 of this title, amending this section and sections 201 note, 241, 286a, 286b, 286c, 286d, 286g, and 289*l* of this title, and enacting provisions set out as notes under sections 289*l* and 289*l*–1 of this title] may be cited as the 'National Cancer Act Amendments of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283, 284 of this title.

§ 283. Administration of powers by Surgeon General; radium; technical instruction and training; acceptance of gifts; memorials; grants-in-aid.

* * * * *

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 219 of this title, for study, investigation, or research

into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Except as provided in section 282(b) of this title, in carrying out the purposes of section 282 of this title grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Board made pursuant to section 284 of this title. (As amended Dec. 23, 1971, Pub. L. 92–218, §§ 3(b)(3), 6(a) (2), (3), 85 Stat. 784, 785.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–218, § 6(a)(3), substituted "National Cancer Advisory Board" for "National Cancer Advisory Council".

Subsec. (c). Pub. L. 92–218, §§ 3(b)(3), 6(a)(2), substituted "Except as provided in section 282(b) of this title, in carrying out" for "In carrying out" and "National Cancer Advisory Board" for "National Cancer Advisory Council".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 284. Functions of Board.

The National Cancer Advisory Board is authorized—

(a) Review of research problems.

To review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 282 of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

* * * * *

(As amended Dec. 23, 1971, Pub. L. 92–218, § 6(a)(4), 85 Stat. 785.)

AMENDMENTS

1971—Pub. L. 92–218 substituted "National Cancer Advisory Board" for "council" in the text preceding par. (a), and "Board" for "council" in section heading.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 283 of this title.

§ 285. Use of appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286d, 287d of this title.

§ 286a. National Cancer Program.

(a) Coordination of Institute activities with National Cancer Program.

The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

(b) Director of National Cancer Institute; duties.

In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

(4) Collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

(6) Support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards.

(8) Call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

(9)(A) Prepare and submit, directly to the President for review and transmittal to Congress,

an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Program) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

(c) President's Cancer Panel; membership; term; Chairman; compensation and travel expenses; meetings; transcripts; reports to President.

(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the "Panel") which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(B) The President shall designate one of the members to serve as Chairman for a term of one year.

(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of Title 5.

(3) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

(4) The Panel shall monitor the development and execution of the National Cancer Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute. (July 1, 1944, ch. 373, title IV, § 407, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 779, and amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(4), 88 Stat. 346; July 23, 1974, Pub. L. 93–352, title I, §§ 103–105, 88 Stat. 359.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c)(2)(C), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of Title 5, referred to in subsec. (c)(2)(C), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

AMENDMENTS

1974—Subsec. (b)(4). Pub. L. 93–352, § 103, substituted "information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)" for "all data".

Subsec. (b)(7). Pub. L. 93–348 substituted "clinical programs relating to cancer, including the use of training stipends" for "clinical and basic research and treatment programs relating to cancer, including where appropriate the use of training stipends".

Pub. L. 93–352, § 104, struck out "where appropriate" preceding "the use of training stipends, fellowships, and career awards".

Subsec. (b)(9)(A). Pub L. 93–352, § 105, inserted "(including an estimate of the number and type of personnel needed for the National Cancer Program)" after "budget estimate".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE

Section 7 of Pub. L. 92–218 provided that:

"(a) This Act and the amendments made by this Act [which enacted sections 286a–286g, and 289*l* of this title, and amended setcions 218 (a), (b), 214 (d), (i), 282, 283 (b), (c) and 284 of this title, and enacted provisions set out as notes under this section] shall take effect sixty days after the date of enactment of this Act [Dec. 23, 1971] or on such prior date after the date of enactment of this Act [Dec. 23, 1971] as the President shall prescribe and publish in the Federal Register.

"(b) The first sentence of section 454 of the Public Health Service Act (added by section 5 of this Act) [section 289*l* of this title] shall apply only with respect to appointments made after the effective date of this Act (as prescribed by subsection (a)).

"(c) Notwithstanding the provisions of subsection (a), members of the National Cancer Advisory Board (authorized under section 410B of the Public Health Service Act, as added by this Act) [section 286f of this title] may be appointed, in the manner provided for in such section, at any time after the date of enactment of this Act [Dec. 23, 1971]. Such officers shall be compensated from the date they first take office, at the rates provided for in such section 410B [section 286f of this title]."

SHORT TITLE

Section 1 of Pub. L. 92–218 provided that: "This Act [which enacted sections 286a–286g and 289*l* of this title, and amended setcions 218 (a), (b), 214 (d), (i), 282, 283 (b), (c), and 284 of this title, and enacted provisions set out as notes under this section] may be cited as 'The National Cancer Act of 1971'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 92–218 provided that:

"(a) The Congress finds and declares—

"(1) that the incidence of cancer is increasing and cancer is the disease which is the major health concern of Americans today;

"(2) that new scientific leads, if comprehensively and energetically exploited, may significantly advance the time when more adequate preventive and therapeutic capabilities are available to cope with cancer;

"(3) that cancer is a leading cause of death in the United States;

"(4) that the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences;

"(5) that a great opportunity is offered as a result of recent advances in the knowledge of this dread disease to conduct energetically a national program against cancer;

"(6) that in order to provide for the most effective attack on cancer it is important to use all of the biomedical resources of the National Institutes of Health; and

"(7) that the programs of the research institutes which comprise the National Institutes of Health have made it possible to bring into being the most productive scientific community centered upon health and disease that the world has ever known.

"(b) It is the purpose of this Act [see Short Title note under this section] to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national effort against cancer."

REPORT TO CONGRESS: FINDINGS RESPECTING REVIEW OF ADMINISTRATIVE PROCESSES AND FACILITATION OF PROGRAM; ADDITIONAL APPROPRIATIONS

Section 4 of Pub. L. 92–218 provided that:

"(a) The President shall carry out a review of all administrative processes under which the National Cancer Program, established under part A of title IV of the Public Health Service Act [this part], will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the Program. Within one year of the date of enactment of this Act [Dec. 23, 1971] the President shall submit a report to Congress of the findings of such review and the actions taken to facilitate the conduct of the Program, together with recommendations for any needed legislative changes.

"(b) The President shall request of the Congress without delay such additional appropriations (including increased authorizations) as are required to pursue immediately any development in the National Cancer Program requiring prompt and expeditious support and for which regularly appropriated funds are not available."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289*l* of this title.

§ 286b. National Cancer Research and Demonstration Centers.

(a) Authorization; support for Centers.

The Director of the National Cancer Institute is authorized to provide for the establishment of new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) of this section or under any other applicable provision of law.

(b) Cooperative agreement with nonprofit agencies or institutions for Federal payments of basic operating support; uses of Federal funds; support limitation; periods and extensions of support.

The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a) of this section) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 285 of this title), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professions personnel), and (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute. (July 1, 1944, ch. 373, title IV, § 408, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 781, and amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(5), 88 Stat. 347; July 23, 1974, Pub. L. 93–352, title I, § 106, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–352 struck out "fifteen" preceding "new centers for clinical research".

Subsec. (b)(3). Pub. L. 93–348 inserted "clinical" before "training" wherever appearing.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

§ 286c. Cancer Control Programs.

(a) Cooperation with State and other health agencies.

The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer, including programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer.

(b) Authorization of appropriations.

There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title IV, § 409, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 781, and amended July 23, 1974, Pub. L. 93–352, title I, § 107, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–352, § 107(a), added provisions directing the inclusion of programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer.

Subsec. (b). Pub. L. 93–352, § 107(b), added provisions authorizing appropriations of $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286g of this title.

§ 286d. Authority of Director of National Cancer Institute.

(a) The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this chapter, is authorized—

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of Title 5, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to section 31 of Title 40, by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to section 529 of Title 31 and section 5 of Title 41, as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution;

(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally; and

(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program.

(b)(1) The Director of the National Cancer Institute shall provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

(2) The Director of the National Cancer Institute shall include in the annual report required by section 286e(b) of this title a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program. (July 1, 1944, ch. 373, title IV, § 410, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 782, and amended July 23, 1974, Pub. L. 93–352, title I, § 108, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a), Pub. L. 93–352, § 108(5), designated existing provisions as subsec. (a).

Subsec. (a)(1). Pub. L. 93–352, § 108(1), substituted "one hundred" for "fifty".

Subsec. (a)(9). Pub. L. 93–352, § 108(2)–(4), added subsec. (a)(9).

Subsec. (b). Pub. L. 93–352, § 108(5), added subsec. (b).

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

§ 286e. Scientific review: use of peer review groups; reports to Congress.

(a) The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Board and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding calendar year and a plan for the Program during the next five years. (July 1, 1944, ch. 373, title IV, § 410A, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 782.)

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286d of this title.

§ 286f. National Cancer Advisory Board.

(a) Membership; representation of interests; qualifications of appointees.

There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the Office of Science and Technology, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

(2) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

(b) Terms; quorum; National Cancer Advisory Board supersedure of National Advisory Cancer Council.

(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

(4) The Board shall supersede the existing National Advisory Cancer Council, and the appointed members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing, or for such shorter time as the President may prescribe.

(c) Chairman.

The President shall designate one of the appointed members to serve as Chairman for a term of two years.

(d) Meetings; advisory and auxiliary functions.

The Board shall meet at the call of the Director of the National Cancer Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the National Cancer Institute with respect to the National Cancer Program.

(e) Executive Secretary.

The Director of the National Cancer Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

(f) Investigation of programs and activities; hearings; testimony; time and place for convening and acting.

The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

(g) Reports to President and Congress.

The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the National Cancer Program toward the accomplishment of its objectives.

(h) Compensation and travel expenses.

Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of Title 5, for persons in the Government service employed intermittently.

(i) Staff, information, and other assistance.

The Director of the National Cancer Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities. (July 1, 1944, ch. 373, title IV, § 410B, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 783.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsec. (b)(4), see Effective Date note set out under this section.

The General Schedule, referred to in subsec. (h), is set out under section 5332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Notwithstanding provision for effectiveness of Pub. L. 92–218 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, members of National Cancer Advisory Board may be appointed at any time after Dec. 23, 1971 and compensated from the date of first taking office as provided in this section 7(a) and (c) of Pub. L. 92–218, set out as a note under section 286a of this title.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 286g. Authorization of appropriations.

For the purpose of carrying out this part (other than section 286c of this title), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972, $500,000,000 for the fiscal year

ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 3, 1976; and $985,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title IV, § 410C, as added Dec. 23, 1971, Pub. L. 92–218, § 3(a), 85 Stat. 784, and amended July 23, 1974, Pub. L. 93–352, title I, § 109, 88 Stat. 359.)

AMENDMENTS

1974—Pub. L. 93–352 added provisions authorizing appropriations of $750,000,000 for the fiscal year ending June 30, 1975, $830,000,000 for the fiscal year ending June 30, 1976, and $985,000,000 for the fiscal year ending June 30, 1977.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 286a of this title.

PART B.—NATIONAL HEART AND LUNG INSTITUTE

AMENDMENTS

1972—Pub. L. 92–423, § 6(e), Sept. 19, 1972, 86 Stat. 687, substituted "Heart and Lung" for "Heart" in the Part B heading.

§ 287. Establishment of Institute.

There is established in the Public Health Service a National Heart and Lung Institute (hereafter in this part referred to as the "Institute"). (As amended Sept. 19, 1972, Pub. L. 92–423, § 6(a), 86 Stat. 686.)

AMENDMENTS

1972—Pub. L. 92–423 substituted "National Heart and Lung Institute" for "National Heart Institute".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 9 of Pub. L. 92–423 provided that: "This Act and the amendments made by this Act [see Short Title note under this section] shall take effect sixty days after the date of enactment of this Act [Sept. 19, 1972], or on such prior date after the date of enactment of this Act [Sept. 19, 1972], as the President shall prescribe and publish in the Federal Register."

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–423 provided that: "This Act [which enacted sections 287b–287f and 287i of this title, amended sections 218, 241, 287, 287a, 287g, and 287h of this title, and enacted provisions set out as notes under this section] may be cited as the 'National Heart, Blood Vessel, Lung, and Blood Act of 1972'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 92–423 provided that:

"(a) Congress finds and declares that—

"(1) diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

"(2) elimination of heart and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and costs of medical care of more than $30,000,000,000 per year;

"(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

"(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

"(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

"(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

"(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases; and

"(8) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart and Lung Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

"(b) It is the purpose of this Act [see Short Title note under this section] to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases."

REPORT TO CONGRESS

Section 8 of Pub. L. 92–423 provided that: "The Secretary of Health, Education, and Welfare shall carry out a review of all administrative processes under which the National Heart, Blood Vessel, Lung, and Blood Disease Program, established under part B of title IV of the Public Health Service Act [this part], will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the Program. Within one year of the date of enactment of this Act [Sept. 19, 1972], the Secretary shall submit a report to the Congress of the findings of such review and the actions taken to facilitate the conduct of the Program, together with recommendations for any needed legislative changes."

§ 287a. Research and training in diseases of the heart, blood vessels, lung, and blood.

In carrying out the purposes of section 241 of this title with respect to heart, blood vessel, lung, and blood diseases the Secretary, through the Institute and in cooperation with the National Heart and Lung Advisory Council (hereinafter in this part referred to as the "Council"), shall—

(1) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart, blood vessel, lung, and blood diseases;

(2) Coordination of research and control programs.

Promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(3) Research facilities made available.

Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(4) Grants-in-aid for research projects.

Make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart, blood vessel, lung, and blood diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equip-

ment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(5) Establishment of information center.

Establish an information center on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(6) Securement of expert advice and services.

Secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart, blood vessel, lung, and blood diseases;

(7) Clinical training and instruction and clinical traineeships.

In accordance with regulations and from funds appropriated or donated for the purpose, provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (As amended Sept. 19, 1972, Pub. L. 92–423, § 6(b), 86 Stat. 686; July 12, 1974, Pub. L. 93–348, title I, § 104(a)(6), 88 Stat. 347.)

AMENDMENTS

1974—Par. (7). Pub. L. 93–348 substituted "for the purpose, provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute" for "for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute".

1972—Pub. L. 92–423 substituted "heart, blood vessel, lung, and blood" for "heart" wherever appearing in introductory text and pars. (1) and (4)–(7), formerly designated pars. (a) and (d)–(g); substituted "Secretary" and "National Heart and Lung Advisory Council" for "Surgeon General" and "National Advisory Heart Council" in introductory text; and redesignated as pars. (1)–(7) former pars. (a)–(g), respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287b, 287g, 287h of this title.

§ 287b. National heart, blood vessel, lung, and blood disease program.

(a) Plan development; National Institutes of Health and National Institute of Neurological Diseases and Stroke, coordination provision.

The Director of the Institute, with the advice of the Council, shall develop a plan for a National Heart, Blood Vessel, Lung, and Blood Disease Program (hereafter in this part referred to as the "Program") to expand, intensify, and coordinate the activities of the Institute respecting heart, blood vessel, lung, and blood diseases (including its activities under section 287a of this title) and shall carry out the Program in accordance with such plan. The Program shall be coordinated with the other research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall provide for—

(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

(3) research into the development, trial, and evaluation of techniques, drugs, and devices, (including computers) used in, and approaches to, the diagnosis, treatment (including emergency medical service), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionalization, and distribution of it and its products;

(7) the education and training of scientists, clinicians, and educators, in fields and specialties

(including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases;

(8) public and professional education relating to all aspects of such diseases and the use of blood and blood products and the management of blood resources;

(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases, which programs shall include programs for (A) the training of paraprofessionals in (i) emergency treatment procedures, and (ii) utilization and operation of emergency medical equipment, (B) the development and operation of (i) mobile critical care units (including helicopters and other airborne units where appropriate), (ii) radio, telecommunications, and other means of communications and (iii) electronic monitoring systems, and (C) the coordination with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and other appropriate services.

The Program shall give special emphasis to the continued development in the Institute of programs relating to atherosclerosis, hypertension, thrombosis, and congenital abnormalities of the blood vessels as causes of stroke, and to effective coordination of such programs with related stroke programs in the National Institute of Neurological Diseases and Stroke.

(b) Transmittal of plan and report to Congress.

(1) The plan required by subsection (a) of this section shall (A) be developed within one hundred and eighty days after the effective date of this section, (B) be transmitted to the Congress, and (C) set out the Institute's staff requirements to carry out the Program and recommendations for appropriations for the Program.

(2) The Director of the Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the Program during the preceding calendar year and a plan for the Program during the next five years.

(c) Director of the Institute; functions.

In carrying out the Program, the Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council and without regard to any other provision of this chapter, may—

(1) if authorized by the Council, obtain (in accordance with section 3109 of Title 5, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than fifty experts or consultants who have scientific or professional qualifications;

(2) acquire, construct, improve, repair, operate, and maintain heart, blood vessel, lung, and blood disease laboratory, research, training, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; and acquire, without regard to section 34 of Title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years; and

(3) enter into such contracts, leases, cooperative agreements, or other transactions, without regard to section 529 of Title 31 and section 5 of Title 41, as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution.

(d) Assistant Director for Health Information Programs; appointment; functions; special emphasis of program.

There shall be in the Institute an Assistant Director for Health Information Programs who shall be appointed by the Director of the Institute. The Director of the Institute, acting through the Assistant Director for Health Information Programs, shall conduct a program to provide the public and the health professions with health information with regard to cardiovascular and pulmonary diseases. In the conduct of such program, special emphasis shall be placed upon dissemination of information regarding diet, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary diseases. (July 1, 1944, ch. 373, title IV, § 413, as added Sept. 19, 1972, Pub. L. 92–423, § 3(3), 86 Stat. 680, and amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(7), 88 Stat. 347.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsec. (b)(1)(A), see Effective Date note set out under this section.

CODIFICATION

A prior section 287b, act July 1, 1944, ch. 373, title IV, § 413, as added June 16, 1948, ch. 481, § 3(b) 62 Stat. 464, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. April 11, 1953, 18 F.R. 2053, 67 Stat. 631, provided for administration of powers by Surgeon General, acceptance of gifts, and memorials, and is now covered by section 287h of this title.

AMENDMENTS

1974—Subsec. (a)(7). Pub. L. 93–348 inserted "clinical" preceding "programs".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9

of Pub. L. 92–423, set out as a note under section 287 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287g of this title.

§ 287c. Heart, blood vessel, lung, and blood disease prevention and control programs.

(a) Establishment.

The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal Health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

(b) Authorization of appropriations.

There is authorized to be appropriated to carry out this section $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, and $45,000,000 for the fiscal year ending June 30, 1975. (July 1, 1944, ch. 373, title IV, § 414, as added Sept. 19, 1972, Pub. L. 92–423, § 3(3), 86 Stat. 682.)

CODIFICATION

A prior section 287c, act July 1, 1944, ch. 373, title IV, § 414, as added June 16, 1948, c. 481, § 3(b), 62 Stat. 464, provided for the functions of the Council, and is now covered by section 287g of this title.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287h, 287i of this title.

§ 287d. National research and demonstration centers for heart, blood vessel, lung, and blood diseases.

(a) Research, training, demonstration, and disease prevention activities.

(1) The Director of the Institute may provide for the development of—

(A) fifteen new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart, blood vessel, and blood diseases; and

(B) fifteen new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for chronic lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children).

(2) The centers developed under paragraph (1) (A) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular diseases:

(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular disease.

(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such disease.

(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such disease.

(D) Programs to develop improved methods of providing emergency medical services for persons with such disease.

(3) Centers developed under this subsection may be supported under subsection (b) of this section or under any other applicable provision of law. The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

(b) Payments under cooperative agreements with public or nonprofit agencies; use of funds; limitations; "construction" and "training" defined.

The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a) of this section) for basic or clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

(1) construction, notwithstanding section 285 of this title,

(2) staffing and other basic operating costs, including such patient care costs as are required for research,

(3) training, including training for allied health professions personnel, and

(4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement may not exceed $5,000,000 in any year. Support of a center under this subsection may be for a period of not to exceed five years and may be extended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director. As used in this section, the term "construction" does not include the acquisition of land; and the term "training" does not include research training for which fellowship support may be provided under section 289*l*–1 of this title. (July 1, 1944, ch. 373, title IV § 415, as added Sept. 19, 1972, Pub. L. 92–423, § 3(3), 86 Stat. 683, and amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(8), 88 Stat. 347.)

CODIFICATION

A prior section 287d, act July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 621, § 3(b), 62 Stat. 598, which related to additional authority with respect to heart diseases, was repealed by act Aug. 15, 1950, ch. 714, § 4(c), 64 Stat. 447, and is now covered by section 286 of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–348 added definition of "training".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

§ 287e. Interagency Technical Committee.

(a) Establishment; coordination functions.

The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

(b) Chairman; representation from Federal agencies.

The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary. (July 1, 1944, ch. 373, title IV, § 416, as added Sept. 19, 1972, Pub. L. 92–423, § 3(3), 86 Stat. 684.)

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

§ 287f. National Heart and Lung Advisory Council.

(a) Establishment; membership; ex officio members; selection of members.

There is established in the Institute a National Heart and Lung Advisory Council to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology, and the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, shall be ex officio members of the Council.

(2) Eighteen members appointed by the Secretary.

Eleven of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to diseases of the heart, blood vessels, lungs, and blood; two of the appointed members shall be selected from persons enrolled in residency programs providing training in heart, blood vessel, lung, or blood diseases; and five of the appointed members shall be selected from members of the general public who are leaders in the fields of fundamental or medical sciences or in public affairs.

(b) Terms; vacancies; service pending succession in office; quorum; Council as successor to National Advisory Heart Council; additional membership from former Council; compensation and travel expenses.

(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

(A) any member appointed to fill a vacancy occuring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

(3) The Council shall supersede the existing National Advisory Heart Council appointed under section 218 of this title, and the appointed members of the National Advisory Heart Council serving on the effective date of this section shall serve as additional members of the National Heart and Lung Advisory Council for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(c) Chairman.

The Secretary (or his designee) shall be the Chairman of the Council.

(d) Executive Secretary; staff, information, and other assistance.

The Director of the Institute shall (1) designate a member of the staff of the Institute to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

(e) Meetings.

The Council shall meet at the call of the Chairman, but not less often than four times a year.

(July 1, 1944, ch. 373, title IV, § 417, as added Sept. 19, 1972, Pub. L. 92–423, § 3(3), 86 Stat. 684).

REFERENCES IN TEXT

For effective date of this section, referred to in subsec. (b)(1)(B), see Effective Date note set out under this section.

The General Schedule, referred to in subsec. (b)(4), is set out under section 5332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Councils is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 287g. Functions of Council.

(a) General authorization.

The Council is authorized to—

(1) Review of research problems.

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases, and certify approval to the Secretary, for prosecution under section 287a of this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases;

(2) Review applications for grants-in-aid for research.

Review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Secretary its approval for grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood disease;

(3) Review applications for grants-in-aid for traineeships.

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases, and certify to the Secretary its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter;

(4) Collection and dissemination of information.

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung and blood diseases, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(5) Recommendations for acceptance of conditional gifts.

Recommend to the Secretary for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part; and

(6) Recommendations for administration of laws.

Advise, consult with, and make recommendations to the Secretary, the Director of the National Institutes of Health, and the Director of the National Heart and Lung Institute with respect to carrying out the provisions of this part.

(b) Assistance respecting section 287b Program; hearings; evidence; time and place for sessions; transmittal of report to Congress.

(1) The Council shall advise and assist the Director of the Institute with respect to the Program established under section 287b of this title. The Council may hold such hearings, take such testimony, and sit and act at such times and places, as the Council deems advisable to investigate programs and activities of the Program.

(2) The Council shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the Program toward the accomplishment of its objectives. (July 1, 1944, ch. 373, title IV, § 418, formerly § 414, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, renumbered and amended Sept. 19, 1972, Pub. L. 92–423, §§ 3(2), 6(c), 86 Stat. 680, 686.)

CODIFICATION

Provisions similar to those in subsec. (a) were formerly contained in section 287c of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–423, § 6(c)(1)–(5), designated existing provisions as subsec. (a); substituted "Secretary" for "Surgeon General" in pars. (1)–(5), formerly designated pars. (a)–(e); substituted "heart, blood vessel, lung, and blood" for "heart" wherever appearing in pars. (1)–(4), formerly designated pars. (a)–(d); substituted in par. (6), formerly designated par. (f), "Secretary, the Director of the National Institutes of Health, and the Director of the National Heart and Lung Institute"; and redesignated as pars. (1)–(6) former pars. (a)–(f), respectively.

Subsec. (b). Pub. L. 92–423, 6(c)(1), added subsec. (b)

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

§ 287h. Administration.

(a) Authority of the Secretary; grants-in-aid.

In carrying out the provisions of section 287a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Secretary, and except as provided in subsection (c) of this section, grants-in-aid for heart, blood vessel, lung, and blood disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 287c of this title.

(b) Acceptance of conditional gifts; memorials.

The Secretary may, in accordance with section 219 of this title, accept conditional gifts for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Research and training grants; limitations.

Under procedures approved by the Director of the National Institutes of Health, the Director of the National Heart and Lung Institute may approve grants under this chapter for research and training in heart, blood vessel, lung, and blood diseases—

(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without review and recommendation by the Council, and

(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by the Council.

(July 1, 1944, ch. 373, title IV, § 419A, formerly § 413, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered and amended Sept. 19, 1972, Pub. L. 92–423, §§ 3(1), 5, 6(d), 86 Stat. 680, 686, 687.)

CODIFICATION

Section 287g of this title is a reference to section 418 of act July 1, 1944, and was substituted for such section as manifesting Congressional intent in Pub. L. 92–423 which enacted another section 414 as part of act July 1, 1944, classified to section 287c of this title, and renumbered former section 414 of act July 1, 1944, originally so referred to in subsec. (a) of this section, as section 418, classified to section 287g of this title.

Provisions similar to those in subsecs. (a) and (b) were formerly contained in section 287b of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–423, §§ 5(1), 6(d)(1), substituted "except as provided in subsection (c) of this section, grants-in-aid" for "grants-in-aid" and "Secretary" and "heart, blood vessel, lung, and blood" for "Surgeon General" and "heart", respectively.

Subsec. (b). Pub. L. 92–423, § 6(d)(2), substituted "The Secretary may, in accordance with section 219 of this title, accept conditional gifts" and "heart, blood vessel, lung, and blood" for "The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 219 of this title," and "heart", respectively.

Subsec. (c). Pub. L. 92–423, § 5(2), added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

§ 287i. Authorization of appropriations.

For the purpose of carrying out this part (other than section 287c of this title), there is authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1973, $425,000,000 for the fiscal year ending June 30, 1974, and $475,000,000 for the fiscal year ending June 30, 1975. Of the sums appropriated under this section for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs under this part respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs under this part for programs respecting diseases of the blood. (July 1, 1944, ch. 373, title IV, § 419B, as added Sept. 19, 1972, Pub. L. 92–423, § 4, 86 Stat. 685.)

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 287 of this title.

PART C.—NATIONAL INSTITUTE OF DENTAL RESEARCH

§ 288a. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in this part referred to as the "Council"), shall—

* * * * *

(c) Securement of expert advice and services.

Secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(d) Cooperation with State health agencies.

Cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(e) Establishment of clinical traineeships.

Provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (As amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(9), 88 Stat. 347.)

AMENDMENTS

1974—Pars. (c)–(f). Pub. L. 93–348 struck out par. (c) providing for establishment of fellowships and redesignated former pars. (d) to (f) as (c) to (e), and in par. (e) substituted "clinical training and instruction and establish and maintain clinical traineeships" for "training and instruction and establish and maintain traineeships", respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 288b, 288c of this title.

PART D.—NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES; NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE; AND OTHER INSTITUTES

AMENDMENTS

1972—Pub. L. 92–305, § 1(b)(2), May 19, 1972, 86 Stat. 163, substituted "National Institute of Arthritis, Metabolism, and Digestive Diseases; National Institute of Neurological Diseases and Stroke; and Other Institutes" for "National Institute on Arthritis, Rheumatism, and Metabolic Diseases, National Institute on Neurological Diseases and Stroke, and Other Institutes" in Part D designation.

§ 289. Congressional declaration of purpose.

COMMISSION FOR THE CONTROL OF EPILEPSY AND ITS CONSEQUENCES

Pub. L. 94–63, title VI, § 604, July 29, 1975, 89 Stat. 348, provided that:

"(a) The Secretary of Health, Education, and Welfare shall establish a temporary commission to be known as the Commission for the Control of Epilepsy and Its Consequences (hereinafter referred to in this section as the 'Commission').

"(b) It shall be the duty of the Commission to—

"(1) make a comprehensive study of the state of the art of medical and social management of the epilepsies in the United States;

"(2) investigate and make recommendations concerning the proper roles of Federal and State governments and national and local public and private agencies in research, prevention, identification, treatment, and rehabilitation of persons with epilepsy;

"(3) develop a comprehensive national plan for the control of epilepsy and its consequences based on the most thorough, complete, and accurate data and information available on the disorder; and

"(4) transmit to the President and the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, not later than one year after the date of enactment of this Act [July 29, 1975], a report detailing the findings and conclusions of the Commission, together with recommendations for legislation and appropriations, as it deems advisable.

"(c)(1) The Commission shall be composed of nine members to be appointed by the Secretary of Health, Education, and Welfare. Such members shall be persons, including consumers of health services, who, by reason of experience or training in the medical, social, or educational aspects of the epilepsies, are especially qualified to serve on such Commission.

"(2) the Secretary shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers.

"(3) Any member of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties on the Commission.

"(4) Members of the Commission, other than those referred to in paragraph (3), shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence in the same manner as is authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(d) The Commission shall cease to exist thirty days after the submission of the final report required by subsection (b)(4)."

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Pub. L. 94–63, title VI, § 605, July 29, 1975, 89 Stat. 349, provided that:

"(a) The Secretary of Health, Education, and Welfare shall establish a temporary commission to be known as the Commission for the Control of Huntington's Disease and Its Consequences (hereinafter referred to in this section as the 'Commission').

"(b) It shall be the duty of the Commission to—

"(1) make a comprehensive study of the state of the art of medical and social management of Huntington's disease in the United States;

"(2) investigate and make recommendations concerning the proper roles of Federal and State governments and national and local public and private agencies in research, prevention, identification, treatment, and rehabilitation of persons with Huntington's disease;

"(3) develop a comprehensive national plan for the control of Huntington's disease and its consequences based on the most thorough, complete, and accurate data and information available on the disorder; and

"(4) transmit to the President and the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, not later than one year after the date of enactment of this Act [July 29, 1975], a report detailing the findings and conclusions of the Commission, together with recommendations for legislation and appropriations, as it deems advisable.

"(c)(1) The Commission shall be composed of nine members to be appointed by the Secretary of Health, Education, and Welfare. Such members shall be persons, including consumers of health services, who, by reason of experience or training in the medical, social, or educational aspects of Huntington's disease, are especially qualified to serve on such Commission.

"(2) The Secretary shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers.

"(3) Any member of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties on the Commission.

"(4) Members of the Commission, other than those referred to in paragraph (3), shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence in the same manner as is authorized by section 5703 of title 5, United States Code for persons in Government service employed intermittently.

"(d) The Commission shall cease to exist thirty days after the submission of the final report required by subsection (b)(4)."

§ 289a. Establishment of Institutes; abolishment; expansion of already established Institutes.

(a) The Surgeon General shall establish in the Public Health Service an institute for research on arthritis, rheumatism, digestive diseases, and metabolism, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also

establish a national advisory council or committee for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council or committee is concerned.

* * * * *

(c) Of the sums appropriated for any fiscal year under this chapter for the National Institutes of Health, not less than $500,000 shall be obligated for basic and clinical orthopedic research conducted within the National Institute of Arthritis, Metabolism, and Digestive Diseases which relates to the methods of preventing, controlling and treating arthritis and related musculoskeletal diseases, including research in implantable biomaterials and biomechanical and other orthopedic procedures and research in the development of new and improved orthopedic treatment methods. (As amended May 19, 1972, Pub. L. 92–305, § 1(b)(1), 86 Stat. 163; Jan. 4, 1975, Pub. L. 93–640, § 5(b), 88 Stat. 2224.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–640 added subsec. (c).

1972—Subsec. (a). Pub. L. 92–305 redesignated institute for research on arthritis, rheumatism, and metabolic diseases as institute for research on arthritis, rheumatism, digestive diseases, and metabolism.

MULTIPLE SCLEROSIS CAUSES, CURES, AND TREATMENTS

Pub. L. 92–563, Oct. 25, 1972, 86 Stat. 1177, provided that:

"Section 1. [Short Title]. This Act may be cited as the 'National Advisory Commission on Multiple Sclerosis Act'.

"Sec. 2 [Congressional findings]. The Congress finds that—

"(1) multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

"(2) this disease, known as the 'great crippler of young adults', generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

"(3) the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

"(4) the determination of the most effective program for discovering the cause of and cures and treatments for the disease deserves the highest priority.

"Sec. 3 [National Advisory Commission: appointment, functions, study, and investigation; membership, chairmen; compensation and travel expenses; administrative support services; assistance from Federal executive agencies; final report to President and Congress; termination date].

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), after consultation with the advisory council to the National Institute on Neurological Diseases and Stroke appointed under section 342 of the Public Health Service Act [section 258 of this title], shall appoint a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. Such study and investigation shall give particular emphasis to the need for additional financial support by the Federal Government and the means by which the Federal Government can best participate in the effort to find the cause of and cures and treatments for multiple sclerosis.

"(2) The Secretary shall appoint to the commission (A) four members of the advisory council referred to in paragraph (1), and (B) five other individuals from the public who are particularly qualified to participate in the work of the commission. The members of the commission shall select a chairman from among the members appointed under clause (B) of the preceding sentence. Members of the commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the commission. While away from their homes or regular places of business in the performance of services for the commission, members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(3) The Secretary shall provide such administrative support services for the commission as it may request.

"(b) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the commission, upon the request of its chairman, such information, services, personnel, and facilities as the commission deems necessary to carry out the purposes of this section.

"(c) The commission shall transmit to the Secretary for transmittal to the President and the Congress a final report (which shall include recommendations for such legislation as the commission determines is necessary) not later than one year after the date of enactment of this Act [Oct. 25, 1972], and the commission shall cease to exist thirty days after submitting its report."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289b, 289c–1 of this title.

§ 289b. Establishment of national advisory councils or committees; composition; qualifications; appointment and tenure; expansion of functions of already established councils or committees.

TERMINATION OF ADVISORY COUNCILS AND COMMITTEES

Advisory Councils and Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council or committee established by the President or an officer of the Federal Government, such council or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289c–1, 289k–3 of this title.

§ 289c. Same; functions.

(a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 241 of this title with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed, through such institute and in cooperation with the national advisory council or committee established or expanded by reason of the establishment of such institute. The provisions of this subsection shall also be applicable to any institute established by any other provision of this chapter to the extent that such institute does not already have the authority conferred by this subsection.

* * * * *

(As amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–348 struck out second sentence reading "In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in

such institute and elsewhere, in matters relating to the diagnosis, prevention, and treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendments by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242a of this title.

§ 289c–1. National Institute of Arthritis, Metabolism, and Digestive Diseases.

(a) The Research Institute on Arthritis, Rheumatism, and Metabolic Diseases established under section 289a(a) of this title is designated the "National Institute of Arthritis, Metabolism, and Digestive Diseases", and the Advisory Council established under section 289b of this title to advise the Secretary with respect to the activities of the Institute is designated the "National Arthritis, Metabolism, and Digestive Diseases Advisory Council". There shall be in the Institute an Associate Director for Digestive Diseases.

(b) There is established in the National Arthritis, Metabolism, and Digestive Diseases Advisory Council a committee to advise the Director of the Institute respecting the activities of the Institute concerning digestive diseases. The committee shall be composed of those members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of digestive diseases. The committee shall review applications made to the Director for grants for research projects relating to the diagnosis, prevention, and treatment of digestive diseases and shall recommend to the Director for approval those applications and contracts which the committee determines will best carry out the purposes of this part. The Advisory Council shall review applications made to the Director for grants for research projects related to arthritis and related musculoskeletal diseases and shall recommend to the Director for approval those applications and contracts which the Council determines will best carry out the purposes of this part. The Advisory Council shall also review and evaluate the arthritis programs under this part and shall recommend to the Director such changes in the administration of such programs as it determines are necessary.

(c) The Director of the Institute, acting through the Associate Director for Digestive Diseases, shall (1) carry out, at the facilities of the Institute, a program of research in the diagnosis, prevention, and treatment of digestive diseases; and (2) carry out programs of support for research and training (other than research training for which National Research Service Awards may be made under section 289*l*–1 of this title) in the diagnosis, prevention, and treatment of digestive diseases, including support for training in medical schools, graduate clinical training, epidemiology studies, clinical trials, and interdisciplinary research programs.

(d) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, working through the Associate Director for Diabetes (if that position is established), shall (1) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and (2) establish programs of evaluation, planning, and dissemination of knowledge related to research and training in diabetes mellitus and related endocrine and metabolic diseases.

(e) There is established within the Institute the position of Associate Director for Arthritis and Related Musculoskeletal Disease (hereinafter in this part referred to as the "Associate Director"), who shall report directly to the Director of such Institute and who, under the supervision of the Director of such Institute, shall be responsible for programs regarding arthritis and related musculoskeletal diseases hereinafter in this part collectively referred to as "arthritis")[1] within such Institute.

(f) The Director of the Institute shall, as soon as practicable, but not later than sixty days, after the end of each fiscal year, prepare, in consultation with the National Advisory Council, and submit to the President and to the Congress a report. Such report shall include (1) a proposal for the Institute's activities under the Arthritis Plan formulated under the National Arthritis Act of 1974 and activities under other provisions of law during the next five years, with an estimate for such additional staff positions and appropriations as may be required to pursue such activities, and (2) a program evaluation section, wherein the activities and accomplishments of the Institute during the preceding fiscal year shall be measured against the Director's proposal for that year for activities under the Arthritis Plan. (July 1, 1944, ch. 373, title IV, § 434, as added May 19, 1972, Pub. L. 93–305, § 1(a), 86 Stat. 162, and amended July 12, 1974, Pub. L. 93–348, title I, § 104(a)(10), 88 Stat. 347; July 23, 1974, Pub. L. 93–354, § 5(b), 88 Stat. 377; Jan. 4, 1975, Pub. L. 93–640, § 5(a), (c), 88 Stat. 2224.)

REFERENCES IN TEXT

The National Arthritis Act of 1974, referred to in subsec. (f), is Pub. L. 93–640, which enacted sections 289c–4, 289c–5 and 289c–6 of this title, amended this section and section 289a of this title, an enacted provisions set out as notes under this section.

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–640, § 5(c), added provisions relating to the review by the Advisory Council of applications for grants for research projects in arthritis and musculoskeletal diseases, and recommendations for approval, and provisions relating to review and evaluation of arthritis programs and recommendations as to changes in the administration of such programs.

Subsecs. (e), (f). Pub. L. 93–640, § 5(a), added subsecs. (e) and (f).

1974—Subsec. (c)(2). Pub. L. 93–348 inserted after "training" where appearing initially "(other than research training for which National Research Awards may be made under section 289*l*–1 of this title)".

Subsec. (d). Pub. L. 93–354 added subsec. (d).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the

[1] So in original. Opening parenthesis should probably precede "hereinafter".

Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–640 provided that: "This Act [enacting sections 289c–4, 289c–5, and 289c–6 of this title, amending this section and section 289a of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Arthritis Act of 1974'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 93–640 provided that:

"The Congress makes the following findings—

"(1) Arthritis and related musculoskeletal diseases constitute major health problems in the United States in that they afflict more than twenty million Americans and are the greatest single cause of chronic pain and disability.

"(2) The complications of arthritis lead to many other serious health problems and other severe physical disabilities in persons of all ages with the disease, particularly children and adolescents.

"(3) The annual cost of arthritis to the national economy in 1970, from medical care expenses and lost wages, was $9,200,000,000, and number of workdays lost in that year totaled over 14,500,000.

"(4) Uncontrolled arthritis significantly decreases the quality of life and has a major negative economic, social, and psychological impact on the families of its victims and society generally.

"(5) Athletic and other types of joint injuries involving trauma can lead to arthritis.

"(6) The development of advanced methods of diagnosis and treatment of arthritis and quality trained health professionals in arthritis deserves the highest national priority.

"(7) There is a critical shortage of medical facilities and properly trained health professionals and allied health professionals in the United States for arthritis research, prevention, treatment, care, and rehabilitation programs.

"(8) The citizens of the United States should have a full understanding of the nature of the human, social, and economic impact of arthritis and should be encouraged to seek early diagnosis and treatment to prevent or mitigate physical disability resulting from arthritis.

"(9) There is great potential for making major advances against arthritis in the National Institute of Arthritis, Metabolism, and Digestive Diseases, in concert with other institutes of the National Institutes of Health."

NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

Section 3 of Pub. L. 93–640 provided that:

"(a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), after consulting with the Director of the National Institutes of Health, shall, within sixty days of the date of the enactment of this section [Jan. 4, 1975], establish a National Commission on Arthritis and Related Musculoskeletal Diseases (hereinafter in this section referred to as the 'Commission').

"(b) The Commission shall be composed of eighteen members as follows:

"(1) Six members appointed by the Secretary who are scientists, physicans, or other health professionals not in the employment of the Federal Government, who represent the various specialties and disciplines involving arthritis and related musculoskeletal diseases (hereinafter in this section collectively referred to as 'arthritis'), and of whom at least two are practicing clinical rheumatologists, at least one is an orthopedic surgeon, and at least one is an allied health professional.

"(2) Four members appointed by the Secretary from the general public, of whom at least two suffer from arthritis.

"(3) One member appointed by the Secretary, from members of the National Arthritis, Metabolism, Digestive Disease Advisory Council, whose primary interest is in the field of rheumatology.

"(4) The Director of the National Institutes of Health or his designee, the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Directors, or their designees, of the National Institute of Allergy and Infectious Diseases and the National Institute of General Medical Science, the Associate Director for Arthritis and Related Musculoskeletal Diseases of such Institute, and the chief medical officer of the Veterans' Administration and the Secretary of Defense or their designees, each of whom shall serve as ex officio, nonvoting members.

"(c) The members of the Commission shall select a chairman from among their own number. The Commission shall first meet on a date specified by the Secretary, not later than 30 days after the Commission is established, and thereafter shall meet at the call of the Chairman of the Commission (but not less often than three times).

"(d) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases shall—

"(1) designate a member of the staff of such Institute to act as Executive Secretary of the Commission, and

"(2) provide the Commission with such full-time professional and clerical staff, such information, and the services of such consultants as may be necessary to assist it in carrying out effectively its function under this section.

"(e) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall each receive the daily equivalent of the rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(f) The Commission shall survey Federal, State, and local health programs and activities relating to arthritis and assess the adequacy, technical soundness, and coordination of such programs and activities. All Federal departments and agencies administering health programs and activities relating to arthritis shall provide such cooperation and assistance relating to such programs and activities as is reasonably necessary for the Commission to make such survey and assesment.

"(g) The Commission shall formulate a long-range plan (hereinafter in this section referred to as the 'Arthritis Plan') with specific recommendations for the use and organization of national resources to commbat arthritis. The Arthritis Plan shall be based on a survey investigating the incidence and prevalence of arthritis and its economic and social consequences, and on an evaluation of scientific information respecting, and the national resources capable of dealing with arthritis. The Arthritis Plan shall include a comprehensive program for tht National Institute of Arthritis, Metabolism, and Digestive Diseases (hereinafter in this section referred to as the 'Institute') and plans for Federal, State, and local programs, which program and programs shall, as appropriate, provide for—

"(1) investigation into the epidemiology, etiology, and prevention and control of arthritis, including the social, environmental, behavioral, nutritional, and biological control of arthritis;

"(2) studies and research into the basic biological processes and mechanisms involved with arthritis, including abnormalities of the immune, musculoskeletal, cardiovascular, gastrointestinal, urogenital, pulmonary, and nervous systems, the skin, and the eyes;

"(3) research into the development, trial, and evaluation of techniques, orthopedic and other surgical procedures, and drugs (including drugs intended for use by children) used in the diagnosis, early detection, treatment, prevention, and control of arthritis;

"(4) programs that will apply scientific and technological methodologies and processes involving biologi-

cal, physical, and engineering sciences to deal with all facets of arthritis, including traumatic arthritis;

"(5) programs for the conduct and direction of field studies large-scale testing, evaluation, and demonstration of preventive, diagnostic, therapeutic, rehabilitative, and control approaches to arthritis, including studies of the effectiveness and use of home care programs, mobile care units, community rehabilitation facilities, and other appropriate community public health and social services;

"(6) studies of the feasibility of, and possible benefits accruing from, the organization and training of teams of health and allied health professionals in the treatment and rehabilitation of individuals who suffer from arthritis;

"(7) programs to evaluate available resources for the rehabilitation of individuals who suffer from arthritis;

"(8) programs to develop new and improved methods of screening and referral for arthritis, and particularly for the early detection of arthritis;

"(9) programs to establish standards and criteria for measurement of the severity and rehabilitative potential of disabilities resulting from arthritis;

"(10) programs to develop a uniform descriptive vocabulary for use in basic and clinical research and a standardized clinical patient data set for arthritis to standardize collection, storage, and retrieval of research and treatment data in order to facilitate collaborative and comparative studies of large patient populations;

"(11) programs to establish a system for the collection, analysis, and dissemination of data useful in the screening, prevention, diagnosis, and treatment of arthritis, including the establishment of a national data storage bank to collect, catalog, and store, and facilitate retrieval and dissemination of information as to the practical application of research and other activities pertaining to arthritis;

"(12) programs for the education (including continuing education programs and development of new techniques and curricula) of scientists, bioengineers, physicians engaged in general practice, the practice of family medicine, or other primary care specialties, surgeons, including orthopedic surgeons, and other health and allied health professionals and educators in the fields and specialties requisite to screening, early detection, diagnosis, treatment, and prevention of arthritis and rehabilitation of individuals who suffer from arthritis;

"(13) programs for public education and counseling relating to arthritis, including public information campaigns on current developments in diagnostic and treatment procedures and programs to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices;

"(14) a program for the acceleration of international cooperation in and exchange of knowledge on research, screening, early detection, diagnosis, treatment, prevention, and control of arthritis; and

"(15) coordination of the research programs relevant to arthritis of other Institutes of the National Institutes of Health, the Department of Health, Education, and Welfare, and other Federal and non-Federal entities.

"(h) The Commission may hold such hearings, take such testimony, and sit at such time and places as it deems advisable.

"(i)(1) The Commission shall prepare for each of the Institutes of the National Institutes of Health whose activities are to be affected by the Arthritis Plan estimates of necessary expenditures to carry out each such Institute's part of the comprehensive program included in the Plan. The estimates shall be prepared for the fiscal year ending June 30, 1976, and for each of the next two fiscal years.

"(2) Within five days after the Budget is transmitted by the President to Congress for the fiscal year ending June 30, 1976, and for each of the next two fiscal years, the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committee on Commerce and Health of the United States House of Representatives an estimate of the amounts requested for arthritis research by each of the Institutes for which estimates were prepared under paragraph (1) and a comparison of such amounts with such estimates.

"(j)(1) The Commission shall publish and transmit directly to the Congress (without prior administrative approval or review by the Office of Management and Budget or any other Federal department or agency) the Arthritis Plan within two hundred and ten days after the date on which funds are first appropriated for the Commission.

"(2) The Commission shall cease to exist on the thirtieth day following the date of the submission of the Arthritis Plan pursuant to paragraph (1) of this subsection.

"(k) There are authorized to be appropriated, without fiscal year limitation, to carry out the purposes of this section $2,000,000."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289c–4, 289c–6 of this title.

§ 289c–1a. Associate Director for Diabetes.

The Secretary of Health, Education, and Welfare may establish within the National Institute of Arthritis, Metabolism, and Digestive Diseases the position of Associate Director for Diabetes who would report directly to the Director of the Institute and who, under the supervision of the Director of the Institute, would be responsible for programs with regard to diabetes mellitus within the Institute. (Pub. L. 93–354, § 6, July 23, 1974, 88 Stat. 377.)

CODIFICATION

Section was enacted as part of the National Diabetes Mellitus Research and Education Act and not as part of the Public Health Service Act which comprises this chapter.

§ 289c–2. Diabetes mellitus and related endocrine and metabolic disorders.

(a) Research and training centers.

Consistent with applicable recommendations of the National Commission on Diabetes, the Secretary shall provide for the development, or substantial expansion, of centers for research and training in diabetes mellitus and related endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic disorders and the complications resulting from such disease or disorders, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such disease, disorders, and complications, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such disease, disorders, or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities.

(b) Evaluation and report to Congress.

The Secretary shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress (on or

before June 30 of each year) the results of his evaluation.

(c) Authorization of appropriations.

There are authorized to be appropriated to carry out this section $8,000,000 for fiscal year ending June 30, 1975, $12,000,000 for fiscal year ending June 30, 1976, and $20,000,000 for fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title IV, § 435, as added July 23, 1974, Pub. L. 93–354, § 5(a), 88 Stat. 376.)

SHORT TITLE

Section 1 of Pub. L. 93–354 provided that: "This Act [enacting this section and sections 289c–1a and 289c–3 of this title, amending sections 247b and 289c–1 of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Diabetes Mellitus Research and Education Act'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 93–354 provided that:

"(a) The Congress makes the following findings:

"(1) Diabetes mellitus is a major health problem in the United States which directly affects perhaps as many as ten million Americans and indirectly affects perhaps as many as fifty million Americans who will pass the tendency to develop diabetes mellitus to their children or grandchildren or to both.

"(2) Diabetes mellitus is a family of diseases that has an impact on virtually all biological systems of the human body.

"(3) Diabetes mellitus is the fifth leading cause of death from disease, and it is the second leading cause of new cases of blindness.

"(4) The severity of diabetes mellitus in children and most adolescents is greater than in adults, which in most cases involves greater problems in the management of the disease.

"(5) The complications of diabetes mellitus, particularly cardiovascular degeneration, lead to many other serious health problems.

"(6) Uncontrolled diabetes mellitus significantly decreases life expectancy.

"(7) There is convincing evidence that the known prevalence of diabetes mellitus has increased dramatically in the past decade.

"(8) The citizens of the United States should have a full understanding of the nature of the impact of diabetes mellitus.

"(9) The attainment of better methods of diagnosis and treatment of diabetes mellitus deserves the highest priority.

"(10) The establishment of regional diabetes research and training centers throughout the country is essential for the development of scientific information and appropriate therapies to deal with diabetes mellitus.

"(11) In order to provide for the most effective program against diabetes mellitus it is important to mobilize the resources of the National Institutes of Health as well as the public and private organizations capable of the necessary research and public education in the disease.

"(b) It is the purpose of this Act [see Short Title note under this section] to—

"(1) expand the authority of the National Institutes of Health to advance the national attack on diabetes mellitus; and

"(2) as part of that attack, to establish a long-range plan to—

"(A) expand and coordinate the national research effort against diabetes mellitus;

"(B) advance activities of patient education, professional education, and public education which will alert the citizens of the United States to the early indications of diabetes mellitus; and

"(C) to emphasize the significance of early detection, proper control, and complications which may evolve from the disease."

NATIONAL COMMISSION ON DIABETES

Section 3 of Pub. L. 93–354 provided that:

"(a) The Director of the National Institutes of Health shall, within sixty days of the date of the enactment of this section [July 23, 1974], establish a National Commission on Diabetes (hereinafter in this section referred to as the "Commission").

"(b) The Commission shall be composed of seventeen members as follows:

"(1) The Directors of the seven Institutes referred to in subsection (e).

"(2) Six members appointed by the Secretary of Health, Education, and Welfare from scientists or physicians who are not in the employment of the Federal Government and who represent the various specialties and disciplines involving diabetes mellitus and related endocrine and metabolic diseases.

"(3) Four members appointed by the Secretary of Health, Education, and Welfare from the general public. At least two of the members appointed pursuant to this paragraph shall be diabetics or parents of diabetics.

The members of the Commission shall select a chairman from among their own number.

"(c) The Commission may appoint an executive director and such additional personnel as it determines are necessary for the performance of the Commissions functions.

"(d) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall each receive the daily equivalent of the rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

"(e) The Commission shall formulate a long-range plan to combat diabetes mellitus with specific recommendations for the utilization and organizations of national resources for that purpose. Such a plan shall be based on a comprehensive survey investigating the magnitude of diabetes mellitus, its epidemiology, and its economic and social consequences and on an evaluation of available scientific information and the national resources capable of dealing with the problem. The plan shall include a plan for a coordinated research program encompassing programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases, the National Eye Institute, the National Institute of Neurological Diseases, the National Heart and Lung Institute, the National Institute of General Medical Sciences, the National Institute of Child Health and Human Development, and the National Institute of Dental Research, and other Federal and non-Federal programs. The coordinated research program shall provide for—

"(1) investigation in the epidemiology, etiology, prevention, and control of diabetes mellitus, including investigation into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, prevention, and control of diabetes mellitus;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal phenomena associated with diabetes mellitus, including abnormalities of the skin, cardiovascular system, kidneys, eyes, and nervous system, and evaluation of influences of other endocrine hormones on the etiology, treatment, and complications of diabetes mellitus;

"(3) research into the development, trial, and evaluation of techniques and drugs used in, and approaches to, the diagnosis, treatment, and prevention of diabetes mellitus;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering science to all facets of diabetes mellitus;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive diagnositic, therapeutic, rehabilitative, and control approaches to diabetes mellitus;

"(6) the education and training of scientists, clinicians, educators, and allied health personnel in the fields and specialties requisite to the conduct of programs respecting diabetes mellitus;

"(7) a system for the collection, analysis, and dissemination of all data useful in the prevention, diagnosis, and treatment of diabetes mellitus;

"(8) appropriate distribution of resources between basic and applied research.

The long-range plan formulated under this subsection shall also include within its scope related endocrine and metabolic diseases and basic biological processes and mechanisms, the better understanding of which is essential to the solution of the problem of diabetes mellitus.

"(f) In the development of the long-range plan under subsection (e), attention shall be given to means to assure continued development of knowledge, and dissemination of such knowledge to the public, which would form the basis of future advances in the understanding, treatment, and control of diabetes mellitus.

"(g) The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission deems advisable to develop the long-range plan required by subsection (e).

"(h)(1) The Commission shall prepare for each of the Institutes whose programs are to be encompassed by the plan for a coordinated diabetes research program described in subsection (e) budget estimates for each Institute's part of such program. The budget estimates shall be prepared for the fiscal year ending June 30, 1976, and for each of the next two fiscal years.

"(2) Within five days after the Budget for the fiscal year ending June 30, 1976, and the Budget for each of the next two fiscal years is transmitted by the President to the Congress the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amounts requested for each of the Institutes for diabetes research, and a comparison of such amounts with the budget estimates prepared by the Commission under paragraph (1).

"(i)(1) The Commission shall publish and transmit directly to the Congress (without prior administrative approval) a final report within nine months after the date funds are first appropriated for the implementation of this section. Such report shall contain the long-range plan required by subsection (e), the budget estimates required by subsection (h), and any recommendations of the Commission for legislation.

"(2) The Commission shall cease to exist on the thirtieth day following the date of the submission of its final report pursuant to paragraph (1) of this subsection.

"(j) There are authorized to be appropriated to carry out the purposes of this section $1,000,000."

§ 289c–3. Diabetes Mellitus Coordinating Committee.

For the purpose of—

(1) better coordination of the total National Institutes of Health research activities relating to diabetes mellitus; and

(2) coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Director of the National Institutes of Health shall establish a Diabetes Mellitus Coordinating Committee. The Committee shall be composed of the Directors (or their designated representatives) of each of the Institutes and divisions involved in diabetes-related research and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary. The Committee shall be chaired by the Director of the National Institutes of Health (or his designated representative). The Committee shall prepare a report as soon after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the Committee in carrying out the coordinating activities described in paragraphs (1) and (2) of this section. (July 1, 1944, ch. 373, title IV, § 436, as added July 23, 1974, Pub. L. 93–354, § 5(a), 88 Stat. 376.)

§ 289c–4. Arthritis Coordinating Committee; establishment; composition; chairman; report to Secretary; time; contents; meetings.

(a) In order to improve coordination of all activities in the National Institutes of Health, in the Department of Health, Education, and Welfare, and in other departments and agencies of the Federal Government relating to Federal health programs and activities relating to arthritis, the Secretary shall establish an Arthritis Coordinating Committee to be composed of representatives of the Department of Health, Education, and Welfare (including the Food and Drug Administration) and of the Veterans' Administration, the Department of Defense, and other Federal departments and agencies involved in research, health services, or rehabilitation programs affecting arthritis. This committee shall include the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in arthritis related research. The Committee shall be chaired by the Associate Director established pursuant to section 289c–1(e) of this title and shall prepare a report not later than sixty days after the end of each fiscal year as possible, for the Secretary detailing the work of the committee in seeking to improve coordination of departmental and interdepartmental activities relating to arthritis during the preceding fiscal year. Such report shall include—

(1) a description of the work of the committee in coordinating the research activities of the National Institutes of Health relating to arthritis during the preceding year, and

(2) a description of the work of the committee in promoting the coordination of Federal health programs and activities relating to arthritis to assure the adequacy of such programs and to provide for the adequate coordination of such programs and activities.

(b) The Committee shall meet at the call of the chairman, but not less often than four times a year. (July 1, 1944, ch. 373, title IV, § 437, as added Jan. 4, 1975, Pub. L. 93–640, § 4, 88 Stat. 2221.)

§ 289c–5. Arthritis screening, detection, prevention and referral demonstration projects.

(a) Grants to public and nonprofit entities; coordination with Federal, State, etc., agencies.

The Secretary, acting through the Assistant Secretary for Health, may make grants to public and nonprofit entities to establish and support projects

for the development and demonstration of methods for arthritis, screening, detection, prevention, and referral, and for the dissemination of these methods to health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 289c–6 of this title, and (3) the data bank under subsection (c) of this section.

(b) Scope of programs.

Projects under this section shall include programs which—

(1) emphasize the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis;

(2) emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

(3) emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping; and

(4) emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals.

(c) Arthritis Screening and Detection Data Bank; establishment; purpose; standardization of patient data and recordkeeping.

(1) As soon as practicable after January 4, 1975, the Secretary, through the Assistant Secretary for Health, shall establish the Arthritis Screening and Detection Data Bank for the collection, storage, analysis, retrieval, and dissemination of data useful in screening, prevention, and early detection involving patient populations with asymptomatic and symptomatic types of arthritis, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis.

(2) The Secretary shall provide for standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 289c–6 of this title, and other persons engaged in arthritis programs.

(d) Authorization of appropriations.

There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year ending June 30, 1975, $3,000,000 for fiscal year ending June 30, 1976, and $4,000,000 for fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title IV, § 438, as added Jan. 4, 1975, Pub. L. 93–640, § 4, 88 Stat. 2222.)

§ 289c–6. Comprehensive arthritis centers.

(a) Development, modernization and operation; modernization defined.

The Secretary, acting through the Assistant Secretary for Health may, after consultation with the National Advisory Council established under section 289c–1(a) of this title and consistent with the Arthritis Plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of centers for arthritis research, screening, detection, diagnosis, prevention, control, and treatment, for education related to arthritis, and for rehabilitation of individuals who suffer from arthritis. For purposes of this section, the term "modernization" means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

(b) Duties and functions.

Each center assisted under this section shall—

(1) (A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

(2) conduct—

(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of, arthritis and complications resulting from arthritis, including research into implantable biomaterials and biomechanical and other orthopedic procedures and in the development of other diagnostic and treatment methods;

(B) training programs for physicians and other health and allied professionals in current methods of diagnosis, screening and early detection, prevention, control, and treatment of arthritis;

(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis; and

(D) programs for the dissemination to the general public of information—

(i) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

(c) Programs.

Each center assisted under this section may conduct programs to—

(1) develop new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis,

(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

(d) Geographical distribution.

The Secretary shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Secretary shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

(e) Annual activities evaluation; report to Congressional committees; time.

The Secretary shall evaluate on an annual basis the activities of centers receiving support under this section and shall report to the appropriate committees of Congress the results of his evaluations not later than four months after the end of each fiscal year.

(f) Limitation of grants.

No center may receive more than three grants under this section.

(g) Authorization of appropriations.

For purposes of this section, there are authorized to be appropriated $11,000,000 for fiscal year ending June 30, 1965, $13,000,000 for fiscal year ending June 30, 1976, and $15,000,000 for fiscal year ending June 30, 1977. Not less than 20 per centum of the funds appropriated for each fiscal year under this subsection shall be used for the purposes of establishing new centers. (July 1, 1944, ch. 373, title IV, § 439, as added Jan. 4, 1975, Pub. L. 93–640, § 4, 88 Stat. 2222.)

REFERENCES IN TEXT

The National Arthritis Act of 1974, referred to in subsec. (a), is Pub. L. 93–640, which enacted this section, sections 289c–4 and 289c–5 of this title, amended sections 289a and 289c–1 of this title and enacted provisions set out as notes under section 289c–1 of this title.

CODIFICATION

Subsec. (d) was omitted in the original. Subsecs. (e) through (h) have been editorially redesignated as (d) through (g), respectively, in order to conform to the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289c–5 of this title.

PART E.—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT AND NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

§ 289d. National Institute of Child Health and Human Development.

(a) Establishment; research and special health problems relating to maternal health, child health, and human development.

The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service the National Institute of Child Health and Human Development for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the processes of human growth and development, including prenatal development.

(b) Research relating to sudden infant death syndrome.

The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 241 of this title with respect to the conduct and support of research which specifically relates to sudden infant death syndrome. (As amended Apr. 22, 1974, Pub. L. 93–270, § 2(a), (b)(1), 88 Stat. 90.)

AMENDMENTS

1974—Pub. L. 93–270 substituted "the National Institute of Child Health and Human Development" for "an institute", designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289f, 289g of this title.

§ 289f. Establishment of advisory councils or committees.

TERMINATION OF ADVISORY COUNCILS AND COMMITTEES

Advisory Councils and Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council or committee established by the President or an officer of the Federal Government, such council or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 289g. Research.

The Secretary shall, through an institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research which is a function of such institute, except that the Secretary shall, in accordance with section 289d (b) of this title, determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter. (As amended Apr. 22, 1974, Pub. L. 93–270, § 2(b)(2), 88 Stat. 90; July 12, 1974, Pub. L. 93–348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Pub. L. 93–348 struck out second sentence reading "The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the institute established under section 289d of this title and elsewhere in matters relating to diagnosis, prevention, and treatment of a disease or diseases or in other aspects of maternal health, child health, and human development, with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions."

Pub. L. 93–270 substituted "Secretary" for "Surgeon General" and " and in first sentence "Secretary shall, in accordance with section 289d(b) of this title," for "Surgeon General shall, with the approval of the Secretary".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

REPORTS TO CONGRESSIONAL COMMITTEES; FUNDS, ESTIMATE: TRANSMITTAL TO CONGRESSIONAL COMMITTEES

Section 2(c) of Pub. L. 93–270 provided that:

"(1) "Within ninety days following the close of the fiscal year ending June 30, 1975, and the close of each of the

next two fiscal years, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the following information for such fiscal year:

"(A) The (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under the Public Health Service Act [this chapter] for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

"(B) The (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under the Public Health Service Act [this chapter] for research which relates generally to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

Each such report shall contain an estimate of the need for additional funds for grants or contracts under the Public Health Service Act [this chapter] for research which relates specifically to sudden infant death syndrome.

"(2) Within five days after the Budget is transmitted by the President to the Congress for the fiscal year ending June 30, 1976, and for each of the next two fiscal years, the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amount requested for the National Institutes of Health for research relating to sudden infant death syndrome and a comparison of that amount with the amount requested for the preceding fiscal year."

PART F.—NATIONAL EYE INSTITUTE

§ 289j. Establishment of advisory council or committee.

TERMINATION OF ADVISORY COUNCILS AND COMMITTEES

Advisory Councils and Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council or committee established by the President or an officer of the Federal Government, such council or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 289k. Research.

The Secretary shall, through the National Eye Institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research with respect to blinding eye diseases and visual disorders associated with general health and well-being, including the special health problems and requirements of the blind and the mechanism of sight and visual function, except that the Secretary shall determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such Institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter. (As amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Pub. L. 93-348 struck out second sentence reading "The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the National Eye Institute end elsewhere in matters relating to diagnosis, prevention, and treatment of blinding eye diseases and visual disorders with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as a note under section 241 of this title.

PART G.—NATIONAL INSTITUTE OF MENTAL HEALTH

AMENDMENTS

1974—Pub. L. 93-282, title II, § 202, May 14, 1974, 88 Stat. 135, added "Part G—National Institute of Mental Health" and redesignated former Part G as "Part H—Administrative Provisions". Another Part G is now Part J.

§ 289k-1. National Institute of Mental Health.

(a) Establishment; functions of Institute; functions of Secretary regarding mental illness prevention, treatment, and rehabilitation program.

There is established the National Institute of Mental Health (hereinafter in this part referred to as the "Institute") to administer the programs and authorities of the Secretary with respect to mental health. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 241 and 242a of this title and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) Appointment of Director and employment and functions of officers and employees of Institute.

(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

(c) Administration of programs to encourage widest participation of professionals and paraprofessionals in certain related disciplines.

The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines. (July 1, 1944, ch. 373, title IV, § 455, as added May 14, 1974, Pub. L. 93-282, title II, § 202, 88 Stat. 135.)

REFERENCES IN TEXT

For classification of Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (a), see Short Title note set out under section 2661 of this title.

Part C of title II, referred to in subsec. (a), is set out as section 2688e et seq. of this title.

PART H.—NATIONAL INSTITUTE ON AGING [NEW]

AMENDMENTS

1974—Pub. L. 93–296, § 3, May 31, 1974, 88 Stat. 185, added Part H. Former Part H, originally Part G, was redesignated Part I by Pub. L. 93–348, title I, § 103, July 12, 1974, 88 Stat. 342 and Pub. L. 93–352, title I, § 110, July 23, 1974, 88 Stat. 360.

§ 289k–2. Establishment.

The Secretary shall establish in the Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the "Institute") for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged. (July 1, 1944, ch. 373, title IV, § 461, as added May 31, 1974, Pub. L. 93–296, § 3, 88 Stat. 185.)

CODIFICATION

Another section 461 of the Public Health Service Act, act July 1, 1944, ch. 373, title IV, which was added as section 454 of the Act by Pub. L. 92–218, § 5, Dec. 23, 1971, 85 Stat. 785, and renumbered section 461 by Pub. L. 93–282, title II, § 202, May 14, 1974, 88 Stat. 135, is set out as section 289*l* of this title.

SHORT TITLE

Section 1 of Pub. L. 93–296 provided that: "This Act [enacting this Part and provisions set out as notes under this section] may be cited as the 'Research on Aging Act of 1974'."

CONGRESSIONAL FINDING AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 93–296 provided that:

"The Congress finds and declares that—

"(1) the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

"(2) in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

"(3) recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

"(4) there is no American institution that has undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

"(5) the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution."

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Pub. L. 94–63, title VI, § 603, July 29, 1975, 89 Stat. 347, provided that:

"(a) The Secretary of Health, Education, and Welfare shall appoint a Committee on Mental Health and Illness of the Elderly (hereinafter in this section referred to as the 'Committee') to make a study of and recomendations respecting—

"(1) the future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of elderly persons,

"(2) the appropriate care of elderly persons who are in mental institutions or who have been discharged from such institutions, and

"(3) proposals for implementing the recommendations of the 1971 White House Conference on Aging respecting the mental health of the elderly.

"(b) Within one year from the date of enactment of this Act [July 29, 1975] the Secretary shall report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the findings of the Committee under the study under subsection (a) and the Committee's recommendations under such subsection.

"(c)(1) The Committee shall be composed of nine members appointed by the Secretary of Health, Education, and Welfare. The Committee shall include at least one member from each of the fields of psychology, psychiatry, social science, social work, and nursing. Each member of the Committee shall by training, experience, or attainments be exceptionally qualified to assist in carrying out the functions of the Committee.

"(2) Members of the Committee shall receive compensation at a rate to be fixed by the Secretary, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee. While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) The Committee shall cease to exist thirty days after the submission of the report pursuant to subsection (b)."

§ 289k–3. National Advisory Council on Aging; establishment; composition; duties, functions, and powers.

(a) The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 289b(a) of this title shall be applicable to the Advisory Council established under this section, except that (1) the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary, and (2) the Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences related to aging.

(c) Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this chapter relating to programs for the aged. (July 1, 1944, ch. 373, title IV, § 462, as added May 31, 1974, Pub. L. 93–296, § 3, 88 Stat. 185.)

§ 289k–4. Functions of Secretary acting through Institute.

(a) The Secretary (1) shall, through the Institute, carry out the purposes of section 241 of this title with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special

problems and needs of the aged, except that the Secretary shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 241 of this title through the Institute or another institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter, and (2) shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as he deems necessary, and, in addition, provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under this chapter or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare.

(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older. (July 1, 1944, ch. 373, title IV, § 463, as added May 31, 1974, Pub. L. 93–296, § 3, 88 Stat. 185.)

§ 289k–5. Research program.

(a) The Secretary, in consultation with the Institute and the National Advisory Council on Aging and such other appropriate advisory bodies as he may establish, shall within two years after May 31, 1974, develop a plan for a research program on aging designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this chapter or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

(b) Upon its completion, the plan for a research program on aging, required by subsection (a) of this section, shall be transmitted to the Congress and to the President and shall set forth the staffing and funding requirements to carry out such program. (July 1, 1944, ch. 373, title IV, § 464, as added May 31, 1974, Pub. L. 93–296, § 3, 88 Stat. 186, and amended Nov. 28, 1975, Pub. L. 94–135, title II, § 206, 89 Stat. 728.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135 substituted "two years" for "one year".

PART I—GENERAL PROVISIONS

AMENDMENTS

1974—Pub. L. 93–282, title II, § 202, May 14, 1974, 88 Stat. 135 redesignated former Part G as Part H.

Pub. L. 93–348, title I, §§ 103, 104(a)(12), July 12, 1974, 88 Stat. 342, 347, redesignated former Part H as Part I and substituted "General Provisions" for "Administrative Provisions", respectively.

Pub. L. 93–352, title I, § 110, July 23, 1974, 88 Stat. 360, also redesignated former Part H as Part I.

1971—Pub. L. 92–218, § 5, Dec. 23, 1971, 85 Stat. 785, added heading of former Part G.

§ 289*l*. Directors of Institutes; appointment; direct reporting requirement.

The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate; and the Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 286a(b)(9) of this title, the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health. (July 1, 1944, ch. 373, title IV, § 471, formerly § 454, as added Dec. 23, 1971, Pub. L. 92–218, § 5, 85 Stat. 785, and renumbered § 461, May 14, 1974, Pub. L. 93–282, title II, § 202, 88 Stat. 135; renumbered § 471, July 12, 1974, Pub. L. 93–348, title I, § 103, 88 Stat. 342; renumbered § 471 and amended July 23, 1974, Pub. L. 93–352, title I, §§ 110, 112(a), 88 Stat. 360.)

AMENDMENTS

1974—Pub. L. 93–352, § 112, added requirement that the Director of the National Institutes of Health be appointed with the advice and consent of the Senate.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 112(b) of Pub. L. 93–352 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to appointments to the office of Director of the National Institutes of Health made after the date of the enactment of this Act [July 23, 1974]."

EFFECTIVE DATE

First sentence of section applicable only with respect to appointments made after the effective date of Pub. L. 92–218, such Pub. L. 92–218, including second sentence effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7(a) and (b) of Pub. L. 92–218, set out as a note under section 286a of this title.

§ 289*l*–1. National Research Service Awards and grants for research or research training.

(a) Biomedical and behavioral research and research training; grants to non-Federal public and nonprofit private institutions; references to Institutes or Administration; residences use restrictions; Awards in subject areas with personnel needs.

(1) The Secretary shall—

(A) provide National Research Service Awards for—

(i) biomedical and behavioral research at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration in matters relating to the cause, diagnosis, prevention, and treatment of the disease (or diseases) or other health problems to which the activities of the Institutes and Administration are directed,

(ii) training at the Institutes and Administration of individuals to undertake such research,

(iii) biomedical and behavioral research at non-Federal public institutions and at nonprofit private institutions, and

(iv) pre- and postdoctoral training at such public and private institutions of individuals to undertake such research; and

(B) make grants to non-Federal public institutions and to nonprofit private institutions to enable such institutions to make to individuals selected by them National Research Service Awards for research (and training to undertake such research) in the matters described in subparagraph (A)(i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

(2) National Research Service Awards may not be used to support residencies.

(3) Effective July 1, 1975, National Research Service Awards may be made for research or research training in only those subject areas for which, as determined under section 289*l*–2 of this title, there is a need for personnel.

(b) Applications for Awards: approval by Secretary, assurances of service requirement, sponsorship, form, submission, and information; review by appropriate advisory councils; applications for grants: approval by Secretary, form, submission, and information; limitation of Award period; stipends and allowances and other payments at non-Federal public or nonprofit private institutions.

(1) No National Research Service Award may be made by the Secretary to any individual unless—

(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c)(1) of this section, and

(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii) or (a)(1)(A)(iv) of this section, the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the Award will be conducted.

An application for an Award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

(2) The award of National Research Service Awards by the Secretary under subsection (a) of this section and the making of grants for such Awards shall be subject to review and approval by the appropriate advisory councils to the entities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration (A) whose activities relate to the research or training under the Awards, or (B) at which such research or training will be conducted.

(3) No grant may be made under subsection (a)(1)(B) of this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a)(1)(B) of this section shall be made in accordance with such regulations as the Secretary shall prescribe.

(4) The period of any National Research Service Award made to any individual under subsection (a) of this section may not exceed three years in the aggregate unless the Secretary for good cause shown waives the application of the three-year limit to such individual.

(5) National Research Service Awards shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the Awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

(c) Health research, teaching, and health-related activities: participation of recipients of Awards; service period; recovery formula upon noncompliance with service requirement; obligation of service: cancellation, waiver or suspension.

(1)(A) Each individual who receives a National Research Service Award shall, in accordance with paragraph (3), engage in—

(i) health research or teaching,

(ii) if authorized under subparagraph (B), serve as a member of the National Health Service Corps or serve in his specialty, or

(iii) if authorized under subparagraph (C), serve in a health related activity approved under that subparagraph,

for a period computed in accordance with paragraph (2).

(B) Any individual who received a National Research Service Award and who is a physician, dentist, nurse, or other individual trained to provide health

care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to—

(i) serve as a member of the National Health Service Corps,

(ii) serve in his specialty in private practice in a geographic area designated by the Secretary as requiring that specialty, or

(iii) provide services in his specialty for a health maintenance organization to which payments may be made under section 1395mm of this title and which serves a medically underserved population (as defined in section 300e–1(7) of this title),

in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(C) Where appropriate the Secretary may, upon application, authorize a recipient of a National Research Service Award, who is not trained to provide health care directly to individual patients, to engage in a health-related activity in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(2) For each year for which an individual receives a National Research Service Award he shall—

(A) for twelve months engage in health research or teaching or, if so authorized, serve as a member of the National Health Service Corps, or

(B) if authorized under paragraph (1)(B) or (1)(C), for twenty months serve in his specialty or engage in a health-related activity.

(3) The requirement of paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's Award, as the Secretary shall by regulation prescribe. The Secretary shall (A) by regulation prescribe (i) the type of research and teaching which an individual may engage in to comply with such requirement, and (ii) such other requirements respecting such research and teaching and alternative service authorized under paragraphs (1)(B) and (1)(C) as he deems necessary; and (B) to the extent feasible, provide that the members of the National Health Service Corps who are serving in the Corps to meet the requirement of paragraph (1) shall be assigned to patient care and to positions which utilize the clinical training and experience of the members.

(4)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (3), to comply with such requirement, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$\left(A=\phi\frac{t-1/2s}{t}\right)$$

in which "A" is the amount the United States is entitled to recover; "ϕ" is the sum of the total amount paid under one or more National Research Service Awards to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing at the time each Award to such individual was made; "t" is the total number of months in such individual's service obligation; and "s" is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury under subparagraph (A) to determine the amount due the United States.

(5)(A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

(d) Authorization of appropriations; minimum sums for subsection (a)(1)(A) payments.

There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such Awards $207,947,000 for the fiscal year ending June 30, 1975. Of the sums appropriated under this subsection, not less than 25 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) of this section. (July 1, 1944, ch. 373, title IV, § 472, as added July 12, 1974, Pub. L. 93–348, title I, § 103, 88 Stat. 342.)

CODIFICATION

Subsec. (c)(5), originally designated (4), was changed in the Code to (5) as a preceding paragraph is also designated (4).

SHORT TITLE

Section 1 of Pub. L. 93–348 provided that: "This Act [which enacted sections 218(f), 289*l*–1 to 289*l*–3, and 300a–7(c) of this title, amended sections 241(c)–(i), 242a(a)(1), (b), 282(a)(3)–7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c)–(f), 289c(a), 289c–1(c)(2), 289g, 289k, and 300a–7(b) of this title, and enacted provisions set out as notes under sections 218, 241, 289*l*–1, and 289*l*–3 of this title] may be cited as the 'National Research Act'."

Section 101 of Pub. L. 93–348 provided that: "This title [which enacted sections 289*l*–1 and 289*l*–2 and amended sections 241(c)–(i), 242a(a)(1), (b), 282(a)(3)–(7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c)–(f), 289c(a), 289c–1(c)(2), 289g, 289k, 295*l*–3(a), and 295h–9 of this title] may be cited as the 'National Research Service Award Act of 1974'."

BIOMEDICAL AND BEHAVIORAL RESEARCH TRAINING; CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Section 102 of Pub. L. 93–348 provided that:

"(a) Congress finds and declares that—

"(1) the success and continued viability of the Federal biomedical and behavioral research effort depends on the availability of excellent scientists and a network

of institutions of excellence capable of producing superior research personnel;

"(2) direct support of the training of scientists for careers in biomedical and behavioral research is an appropriate and necessary role for the Federal Government; and

"(3) graduate research assistance programs should be the key elements in the training programs of the institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration.

"(b) It is the purpose of this title [see section 101 of Pub. L. 93–348 set out as Short Title note hereunder] to increase the capability of the institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration to carry out their responsibility of maintaining a superior national program of research into the physical and mental diseases and impairments of man."

HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH: PROTECTION NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Sections 201 to 205 of Pub. L. 93–348 provided as follows:

"SEC. 201. (a) There is established a Commission to be known as the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (hereinafter in this title [Title II of Pub. L. 93–348] referred to as the 'Commission').

"(b)(1) The Commission shall be composed of eleven members appointed by the Secretary of Health, Education, and Welfare (hereinafter in this title [Title II of Pub. L. 93–348] referred to as the 'Secretary'). The Secretary shall select members of the Commission from individuals distinguished in the fields of medicine, law, ethics, theology, the biological, physical, behavioral and social sciences, philosophy, humanities, health administration, government, and public affairs; but five (and not more than five) of the members of the Commission shall be individuals who are or who have been engaged in biomedical or behavioral research involving human subjects. In appointing members of the Commission, the Secretary shall give consideration to recommendations from the National Academy of Sciences and other appropriate entities. Members of the Commission shall be appointed for the life of the Commission. The Secretary shall appoint the members of the Commission within sixty days of the date of the enactment of this Act [July 12, 1974].

"(2)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of the basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Commission.

"(B) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

"(C) While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(c) The chairman of the Commission shall be selected by the members of the Commission from among their number.

"(d)(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"SEC. 202. (a) The Commission shall carry out the following:

"(1)(A) The Commission shall (i) conduct a comprehensive investigation and study to identify the basic ethnic principles which should underline the conduct of biomedical and behavioral research involving human subjects, (ii) develop guidelines which should be followed in such research to assure that it is conducted in accordance with such principles, and (iii) make recommendations to the Secretary (I) for such administrative action as may be appropriate to apply such guidelines to biomedical and behavioral research conducted or supported under programs administered by the Secretary, and (II) concerning any other matter pertaining to the protection of human subjects of biomedical and behavioral research."

"(B) In carrying out subparagraph (A), the Commission shall consider at least the following:

"(i) The boundaries between biomedical or behavioral research involving human subjects and the accepted and routine practice of medicine.

"(ii) The role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects.

"(iii) Appropriate guidelines for the selection of human subjects for participation in biomedical and behavioral research.

"(iv) The nature and definition of informed consent in various research settings.

"(v) Mechanisms for evaluating and monitoring the performance of Institutional Review Boards established in accordance with section 474 of the Public Health Service Act [section 289*l*–3 of this title] and appropriate enforcement mechanisms for carrying out their decisions.

"(C) The Commission shall consider the appropriateness of applying the principles and guidelines identified and developed under subparagraph (A) to the delivery of health services to patients under programs conducted or supported by the Secretary.

"(2) The Commission shall identify the requirements for informed consent to participation in biomedical and behavioral research by children, prisoners, and the institutionalized mentally infirm. The Commission shall investigate and study biomedical and behavioral research conducted or supported under programs administered by the Secretary and involving children, prisoners, and the institutionalized mentally infirm to determine the nature of the consent obtained from such persons or their legal representatives before such persons were involved in such research; the adequacy of the information given them respecting the nature and purpose of the research, procedures to be used, risks and discomforts, anticipated benefits from the research, and other matters necessary for informed consent; and the competence and the freedom of the persons to make a choice for or against involvement in such research. On the basis of such investigation and study the Commission shall make such recommendations to the Secretary as it determines appropriate to assure that biomedical and behavioral research conducted or supported under programs administered by him meets the requirements respecting informed consent identified by the Commission. For purposes of this paragraph, the term 'children' means individuals who have not attained the legal age of consent to participate in the research as determined under the applicable law of the jurisdiction in which the research is to be conducted; the term 'prisoner' means individuals involuntarily confined in correctional institutions or facilities (as defined in section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781) [section 3781 of this title]); and the term 'institutionalized mentally infirm' includes individuals who are mentally ill, mentally retarded, emotionally disturbed, psychotic, or senile, or who have other impairments of a similar nature and who reside as patients in an institution.

"(3) The Commission shall conduct an investigation and study to determine the need for a mechanism to assure that human subjects in biomedical and behavioral research not subject to regulation by the Secretary are protected. If the Commission determines that such a mechanism is needed, it shall develop and recommend to the Congress such a mechanism. The Commission may contract

for the design of such a mechanisms to be included in such recommendations.

"(b) The Commission shall conduct an investigation and study of the nature and extent of research involving living fetuses, the purposes for which such research has been undertaken, and alternative means for achieving such purposes. The Commission shall, not later than the expiration of the 4-month period beginning on the first day of the first month that follows the date on which all the members of the Commission have taken office, recommend to the Secretary policies defining the circumstances (if any) under which such research may be conducted or supported.

"(c) The Commission shall conduct an investigation and study of the use of psychosurgery in the United States during the five-year period ending December 31, 1972. The Commission shall determine the appropriateness of its use, evaluate the need for it, and recommend to the Secretary policies defining the circumstances (if any) under which its use may be appropriate. For purposes of this paragraph, the term 'psychosurgery' means brain surgery on (1) normal brain tissue of an individual, who does not suffer from any physical disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (2) diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure or ameliorate the effects of epilepsy and electric shock treatments.

"(d) The Commission shall make recommendations to the Congress respecting the functions and authority of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research to be established under section 217(f) of the Public Health Service Act [section 218(f) of this title].

"SEC. 203. The Commission shall undertake a comprehensive study of the ethical, social, and legal implications of advances in biomedical and behavioral research and technology. Such study shall include—

"(1) an analysis and evaluation of scientific and technological advances in past, present, and projected biomedical and behavioral research and services;

"(2) an analysis and evaluation of the implications of such advances, both for individuals and for society;

"(3) an analysis and evaluation of laws and moral and ethical principles governing the use of technology in medical practice;

"(4) an analysis and evaluation of public understanding of and attitudes toward such implications and laws and principles; and

"(5) an analysis and evaluation of implications for public policy of such findings as are made by the Commission with respect to advances in biomedical and behavioral research and technology and public attitudes toward such advances.

"SEC. 204. (a) The Commission may for the purpose of carrying out its duties under sections 202 and 203 hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

"(b) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon the request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(c) The Commission shall not disclose any information reported to or otherwise obtained by it in carrying out its duties which (1) identifies any individual who has been the subject of an activity studied and investigated by the Commission, or (2) which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code.

"(d) Except as provided in subsection (b) of section 202, the Commission shall complete its duties under sections 202 and 203 not later than the expiration of the 24-month period beginning on the first day of the first month that follows the date on which all the members of the Commission have taken office. The Commission shall make periodic reports to the President, the Congress, and the Secretary respecting its activities under sections 202 and 203 and shall, not later than ninety days after the expiration of such 24-month period, make a final report to the President, the Congress, and the Secretary respecting such activities and including its recommendations for administrative action and legislation.

"(e) The Commission shall cease to exist thirty days following the submission of its final report pursuant to subsection (d).

"SEC. 205. Within 60 days of the receipt of any recommendation made by the Commission under section 202, the Secretary shall publish it in the Federal Register and provide opportunity for interested persons to submit written data, views, and arguments with respect to such recommendation. The Secretary shall consider the Commission's recommendation and relevant matter submitted with respect to it and, within 180 days of the date of its publication in the Federal Register, the Secretary shall (1) determine whether the administrative action proposed by such recommendation is appropriate to assure the protection of human subjects of biomedical and behavioral research conducted or supported under programs administered by him, and (2) if he determines that such action is not so appropriate, publish in the Federal Register such determination together with an adequate statement of the reasons for his determination. If the Secretary determines that administrative action recommended by the Commission should be undertaken by him, he shall undertake such action as expeditiously as is feasible."

LIMITATION ON RESEARCH

Section 213 of Pub. L. 93–348 provided that: "Until the Commission has made its recommendations to the Secretary pursuant to section 202(b), the Secretary may not conduct or support research in the United States or abroad on a living human fetus, before or after the induced abortion of such fetus, unless such research is done for the purpose of assuring the survival of such fetus."

BIOMEDICAL RESEARCH; ESTABLISHMENT OF PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Pub. L. 93–352, title II, § 201, July 23, 1974, 88 Stat. 361, provided that:

"(a)(1) There is established the President's Biomedical Research Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of (A) the Chairman of the President's Cancer Panel (established under section 407(c) of the Public Health Service Act) [section 286a(c) of this title]; and (B) six members appointed by the President who by virtue of their training, experience, and background are exceptionally qualified to carry out the duties of the Panel. At least five of the members of the Panel shall be distinguished scientists or physicians. The appointed members of the Panel shall be appointed for the life of the Panel.

"(2) The President shall designate one of the appointed members to serve as Chairman of the Panel.

"(3) Appointed members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel; and while away from their homes or regular places of business in the performance of services for the Panel, all members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(4) The Panel may appoint and fix the pay of such personnel as it deems necessary to carry out its duties.

"(b) The Panel shall—

"(1) review and assess,

"(2) identify and make recommendations with respect to policy issues concerning the subject and content of, and

"(3) identify and make recommendations with respect to policy issues concerning the organization and operation of,

biomedical and behavioral research conducted and supported under programs of the National Institutes of Health and the National Institute of Mental Health.

"(c)(1) Not later than the expiration of the 15-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office, the Panel shall submit simultaneously to the President and to the Congress a comprehensive report of (A) its findings made on the basis of the review and assessment conducted under clause (1) of subsection (b), and (B) the policy issues identified under clauses (2) and (3) of such subsection and the Panel's recommendations with respect to such issues.

"(2) The Panel shall terminate upon the expiration of the 18-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287d, 289c–1 of this title.

§ 289*l*–2. Studies respecting biomedical and behavioral research personnel.

(a) Scope of undertaking.

The Secretary shall, in accordance with subsection (b) of this section, arrange for the conduct of a continuing study to—

(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

(2) assess (A) current-training programs available for the training of biomedical and behavioral research personnel which are conducted under this chapter at or through institutes under the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

(3) identify the kinds of research positions available to and held by individuals completing such programs;

(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

(b) Arrangement with National Academy of Sciences or other nonprofit private groups or associations.

(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) of this section under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c) of this section.

(c) Report to Congressional committees.

A report on the result of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than March 31 of each year. (July 1, 1944, ch. 373, title IV, § 473, as added July 12, 1974, Pub. L. 93–348, title I, § 103, 88 Stat. 345.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289*l*–1 of this title.

§ 289*l*–3. Institutional Review Boards; ethics guidance program.

(a) The Secretary shall by regulation require that each entity which applies for a grant or contract under this chapter for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an "Institutional Review Board") to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research.

(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately. (July 1, 1944, ch. 373, title IV, § 474, as added July 12, 1974, Pub. L. 93–348, title II, § 212(a), 88 Stat. 352.)

REGULATIONS

Section 212(b) of Pub. L. 93–348 provided that: "The Secretary of Health, Education, and Welfare shall within 240 days of the date of the enactment of this Act [July 12, 1974] promulgate such regulations as may be required to carry out section 474(a) of the Public Health Service Act [subsec. (a) of this section]. Such regulations shall apply with respect to applications for grants and contracts under such Act [this chapter] submitted after promulgation of such regulations."

§ 289*l*–4. Peer review of grant applications and contract projects.

(a) Regulations.

The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

(1) applications made after the effective date of such regulations for grants under this chapter for biomedical and behavioral research; and

(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this subchapter, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

(b) Conduct of review of grant applications.

Regulations promulgated under subsection (a) of this section shall, to the extent practical, require that the review of grant applications required by the regulations be conducted—

(1) in a manner consistent with the system for scientific peer review applicable on July 23, 1974, to applications for grants under this chapter for biomedical and behavioral research, and

(2) by peer review groups performing such review on or before such date.

(c) Qualifications of peer review groups.

The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States. (July 1, 1944, ch. 373, title IV, § 475, formerly § 472, as added July 23, 1974, Pub. L. 93–352, title I, § 110, 88 Stat. 360, and renumbered July 29, 1975, Pub. L. 94–63, title VI, § 607(b), (c), 89 Stat. 351.)

PART J.—MISCELLANEOUS PROVISIONS

§ 290a. Victims of fire.

(a) Research on burns, burn injuries, and rehabilitation.

The Secretary of Health, Education, and Welfare shall establish, within the National Institutes of Health and in cooperation with the Secretary, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(1) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs and twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(2) provide training and continuing support of specialists to staff the new burn centers and burn units;

(3) sponsor and encourage the establishment of ninety burn programs in general hospitals which comprise staffs of burn injury specialists;

(4) provide special training in emergency care for burn victims;

(5) augment sponsorship of research on burns and burn treatment;

(6) administer and support a systematic program of research concerning smoke inhalation injuries; and

(7) sponsor and support other research and training programs in the treatment and rehabilitation of burn injury victims.

(b) Authorization of appropriations.

For purposes of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year ending June 30, 1975 and not to exceed $8,000,000 for the fiscal year ending June 30, 1976. (Pub. L. 93–498, § 19, Oct. 29, 1974, 88 Stat. 1547.)

CODIFICATION

Section was enacted as part of the Federal Fire Prevention and Control Act of 1974, and not as a part of the Public Health Service Act with comprises this chapter.

SUBCHAPTER IV.—CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 293a, 300o–1, 300p–2, 2005b, 2005d, 3195, 4519 of this title; title 40 App., section 214.

§ 291a. Authorization of appropriations.

In order to assist the States in carrying out the purposes of section 291 of this title, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1974—

(1) $20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $150,000,000 for the fiscal year ending June 30, 1965, $160,000,000 for the fiscal year ending June 30, 1966, $170,000,000 for the fiscal year ending June 30, 1967, $180,000,000 each for the next two fiscal years, $195,000,000 for the fiscal year ending June 30, 1970, $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, $157,500,000 for the fiscal year ending June 30, 1973, and $41,400,000 for the fiscal year ending June 30, 1974; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), $65,000,000 for the fiscal year ending June 30, 1971, $80,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 for the fiscal year ending June 30, 1974.

(As amended June 18, 1973, Pub. L. 93–45, title I, § 108(a), 87 Stat. 92.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45, § 108(a)(1), substituted introductory text reading "fiscal year ending June 30, 1974" for "fiscal year ending June 30, 1965, and each of the next eight fiscal years" and in cl. (1) "$20,800,000" for "$85,000,000".

Subsec. (b). Pub. L. 93–45, § 108(a)(2), authorized appropriations of $41,400,000 for fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93–45, § 108(a)(3), authorized appropriations of $50,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291b, 291d, 291g, 291o of this title.

§ 291b. State allotments.

AVAILABILITY OF FUNDS FOR OBLIGATION FROM ALLOTMENT FOR ADMINISTRATION OF PLAN

Pub. L. 93–641, § 5(b), Jan. 4, 1975, 88 Stat. 2274, provided that: "Any State which has in the fiscal year ending June 30, 1975, or the next fiscal year funds avail-

able for obligation from its allotments under part A of title VI of the Public Health Service Act [section 291a et seq. of this title] may in such fiscal year use for the proper and efficient administration during such year of its State plan approved under such part an amount of such funds which does not exceed 4 per centum of such funds or $100,000, whichever is less."

§ 291d. State plans.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320a–1 of this title; title 21 section 1173.

§ 291e. Projects for construction or modernization.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293c of this title.

§ 291j–1. Loan guarantees and loans.

(a) Authority of Secretary.

(1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 291j–7 of this title.

* * * * *

(As amended June 18, 1973, Pub. L. 93–45, title I, § 108(b)(1), 87 Stat. 93).

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45 extended termination date of guarantee and loan making period in pars. (1) and (2) from June 30, 1973, to June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j–2 of this title.

§ 291j–5. Limitation on amounts of loans guaranteed or directly made.

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of—

* * * * *

(2) in the case of loans covered by allotments for the fiscal year ending June 30, 1971, $500,000,000; for the fiscal year ending June 30, 1972, $1,000,000,000; and for each of the fiscal years ending June 30, 1973, and June 30, 1974, $1,500,000,000.

(As amended June 18, 1973, Pub. L. 93–45, title I, § 108(b)(2), 87 Stat. 93.)

AMENDMENTS

1973—Pub. L. 93–45 provided for a limitation of $1,500,000 on amount of loans outstanding in the case of loans covered by allotments for fiscal year ending June 30, 1974.

§ 291j–6. Loan guarantee and loan fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q–2 of this title.

§ 291k. Federal Hospital Council.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 291o. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293d, 4485 of this title; title 29 section 771.

SUBCHAPTER V.—HEALTH RESEARCH AND TEACHING FACILITIES, AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 242l, 300d–5, 300l–2 of this title; title 38 section 5070.

PART A.—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293, 293b, 293e, of this title.

§ 292b. National Advisory Council on Health Research Facilities.

* * * * *

(b) Functions.

The Council shall—

(1) advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part; and

(2) consider all applications for grants under this part and make to the Secretary such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

(c) Administration.

The Secretary is authorized to use the services of any member or members of the Council, and where appropriate, any member or members of the Federal Hospital Council, the National Advisory Health Council, the National Advisory Health Council or the other national advisory councils or committees referred to in section 218 of this title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Secretary shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council, the Federal Hospital Council, the National Advisory Health Council and such other national

advisory councils or committees, with respect to matters bearing on the purposes and administration of this part. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (b)(1), (2) and (c).

SHORT TITLE OF 1971 AMENDMENT

Section 101(a) of Pub. L. 92–157 provided that: "This title [which enacted sections 293i, 294g, 295e—1 to 295e—5, 295f—5, 295g—11, 295g—21 to 295g—23, and 3505d of this title, amended sections 210(f), 218(a), 242i, 254(a), 276, 277, 280, 280a—1(a), 292b, 292d–292f, 292h–292j, 293 to 293e, 293g, 293h, 294 to 294f, 295f to 295f—4, 295g, 295g—1, 295h—3d, 295h—4, 295h—8, 295h—9, 1857c—6, 1857c—8, 1857f—6c, 1857h—5, and 2676 of this title and section 346a(g) of Title 21, and enacted provisions set out as notes under section 295h—8 of this title] may be cited as the 'Comprehensive Health Manpower Training Act of 1971'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292a of this title.

§ 292d. Applications.

(a) Time.

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b) Eligibility.

To be eligible to apply for a grant under this part, the applicant must be a public or nonprofit institution, determined by the Secretary, after consultation with the Council, to be competent to engage in the type of research for which the facility is to be constructed.

(c) Recommendation and approval; findings required.

A grant under this part may be made only if the application therefor is recommended for approval by the Council and is approved by the Secretary upon his determination that—

* * * * *

(d) Conditional approval.

Within such aggregate monetary limit as the Secretary may prescribe, after consultation with the Council, applications which (solely by reason of the inability of the applicants to give the assurance required by clause (B) of subsection (c) (2) of this section) fail to meet the requirements for approval set forth in subsection (c) of this section may be approved upon condition that the applicants give the assurance required by such clause (B) within a reasonable time and upon such other reasonable terms and conditions as he may determine after consultation with the Council.

(e) Matters considered.

In acting upon applications for grants, the Council and the Secretary shall take into consideration the relative effectiveness of the proposed facilities in expanding capacity for research, or research and related purposes, in the sciences related to health, in improving the quality of such research or related purposes, and in promoting an equitable geographical distribution of such research (giving due consideration to population, available scientific research workers, and available research resources in various areas of the Nation). (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(1), (2)(A), 85 Stat. 437.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157, § 102(k)(1), substituted provision respecting setting dates (not earlier than in fiscal year preceding year for which a grant is sought) by which applications for grants for any fiscal year must be filed, for former requirement that the applications be made not later than June 30, 1970.

Subsecs. (b)–(e). Pub. L. 92–157, § 102(k)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing.

§ 292e. Amount of grant.

(a) Maximum.

(1) The amount of any grant made under this part shall be that recommended by the Council or such lesser amount as the Secretary determines to be appropriate; but such amount may not, except as provided in paragraph (2), exceed 50 per centum of the necessary cost of the construction of such facility, as determined by him, in the case of a facility which the Secretary determines to be used for research, or research and purposes related thereto (including research training), in the sciences related to health or, in the case of any other multipurpose facility, 50 per centum of that part of the necessary cost of construction which the Secretary determines to be proportionate to the contemplated use of the facility for research, or research and related purposes in the sciences related to health.

* * * * *

(b) Reservation of amount of grants; manner of payments.

Upon approval of any application for a grant under this part, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement facilities of the Department of the Treasury. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), (B), 85 Stat. 437.)

AMENDMENTS

1971—Subsec. (a)(1). Pub. L. 92–157, § 102(k)(2)(A), substituted "Secretary" for "Surgeon General" in three instances.

Subsec. (b). Pub. L. 92–157, § 102(k)(2)(A), (B), substituted "Secretary" and "Secretary's" for "Surgeon General" and "Surgeon General's", respectively.

§ 292f. Recapture of payments.

If, within ten years after completion of any construction for which funds have been paid under this part—

* * * * *

(b) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–157 substituted "Secretary" for "Surgeon General".

§ 292h. Regulations.

(a) Within six months after July 30, 1956, the Secretary shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(b) The Secretary may make such administrative and other regulations as he finds necessary to carry out the provisions of this part. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102 (k)(2)(C), 85 Stat. 437.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157 substituted "Secretary" for "Surgeon General, after consultation with the Council and with the approval of the Secretary,".

Subsec. (b). Pub. L. 92–157 substituted "Secretary may make" for "Surgeon General is authorized to make, with the approval of the Secretary,".

§ 292i. Reports; contents.

On or before January 15, 1957, and annually thereafter, the Secretary, in consultation with the Council, shall prepare an annual report and submit it to the President for transmission to the Congress summarizing the activities under this part and making such recommendations as he may deem appropriate. The report to be submitted on or before January 15, 1958, shall include an appraisal of the current program under this part in the light of its adequacy to meet the long-term needs for funds for the construction of non-Federal facilities for research in the sciences related to health. Such reports and appraisals shall include minority views and recommendations, if any, of members of the Council. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102 (k)(2)(A), 85 Stat. 437.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "Secretary" for "Surgeon General".

§ 292j. Technical assistance.

The Secretary is authorized to provide assistance to applicants under this part, and other public or nonprofit institutions engaging or competent to engage in research, or research and related purposes, in the sciences related to health, in designing and planning the construction of facilities for the conduct of such research or research and related purposes. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102 (k)(2)(A), 85 Stat. 437.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "Secretary" for "Surgeon General".

PART B.—GRANTS AND LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL

AMENDMENTS

1971—Pub. L. 92–157, title I, § 102(j)(6), Nov. 18, 1971, 85 Stat. 437, included a reference to "Loan Guarantees and Interest Subsidies" in the heading of Part B.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293e of this title.

§ 293. Authorization of appropriations.

There are authorized to be appropriated $225,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, and $275,000,000 for the fiscal year ending June 30, 1974, for grants under part A of this subchapter for construction of health research facilities and for grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(a), 85 Stat. 431.)

AMENDMENTS

1971—Pub. L. 92–157 authorized appropriations of $225,000,000; $250,000,000; and $275,000,000 for fiscal years ending June 30, 1972, 1973, and 1974, respectively, for grants under part A of this subchapter for construction of health research facilities and for grants to assist in construction of teaching facilities for training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2931 of this title.

§ 293a. Applications.

(a) Filing dates.

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b) Eligibility.

(1) To be eligible to apply for a grant to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient period of operation), is not, at the time of application for a grant to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if

any) under construction or planned and to be commenced with a reasonable time, or (C) any combination of schools which are described in clause (A) and which meet the requirements of clause (B).

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital or affiliated outpatient facility, an application which is approved by the school of medicine, osteopathy, or dentistry with which the hospital or outpatient facility is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 291e of this title.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital or affiliated outpatient facility, by any other public or other nonprofit agency, for a grant under this part to assist in the construction of a hospital or outpatient facility, as defined in section 291o of this title—

(A) if the hospital or outpatient facility is needed in connection with a new school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity, or

(C) if the construction is in connection with renovation or rehabilitation of a hospital or outpatient facility used by an existing school, only that portion of the project which the Secretary determines to be reasonably attributable to the need of such school for the hospital or outpatient facility in order to prevent curtailment of enrollment or quality of training of the school or to meet an increase in student enrollment,

shall be regarded as the project with respect to which payments may be made under section 293b of this title.

(c) Approval by Secretary; enrollment increase requirement; waiver; advice of Council.

A grant under this part may be made only if the application therefor is approved by the Secretary upon his determination that—

* * * * *

(2) the application contains or is supported by reasonable assurances that (A) the facility is intended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 295f(f) of this title, where applicable. If a school applies for a grant in a fiscal year for a construction project to expand its training capacity and if under paragraph (2) of section 295f(f) of this title the school is not required to meet in such fiscal year the enrollment increase prescribed by such section because of limitations of physical facilities, the Secretary, after consultation with the National Advisory Council on Health Professions Education, may waive (in whole or in part) the enrollment increase prescribed by clause (D) of the preceding sentence if the application for such construction project contains or is supported by reasonable assurances satisfactory to the Secretary that the number of first-year students enrolled at such school during the first full school year after the completion of such project and for each of the next nine school years thereafter will be not less than the number of first-year students that such school would be required to enroll under section 295f(f) of this title (without regard to paragraph (2) thereof) for a grant under section 295f(a) of this title;

(3)(A) in the case of an application for a grant to assist in the construction of new teaching facilities, such application is for aid in the construction of a new school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing teaching facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided (and, for purposes of this part, expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment, respectively, of training capacity) or are required to meet an increase in student enrollment;

* * * * *

(5) the applicant contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of La-

bor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of Title 40;

(6) if the application requests aid in construction of a facility which is a hospital or outpatient facility as defined in section 291o of this title, an application with respect thereto has been filed under subchapter IV of this chapter and has been denied thereunder because (A) the project has no insufficient priority, or (B) funds are not available for the project from the State's allotments under subchapter IV of this chapter; and

(7) in the case of an application for a project for the construction of a facility intended, at least in part, for the provision of health services, an opportunity has been provided for comment on the project by (A) the State agency administering or supervising the administration of the State plan approved under section 246(a) of this title, and (B) the public or nonprofit private agency or organization responsible for the plan or plans referred to in section 246(b) of this title and covering the area in which such project is to be located or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Secretary, similar functions.

Before approving or disapproving an application under this part, the Secretary shall secure the advice of the National Advisory Council on Health Professions Education established by section 293e of this title (hereinafter in this part referred to as the "Council").

(d) Matters considered.

In considering applications for grants, the Council and the Secretary shall take into account—

* * * * *

(e) Special consideration for certain projects.

In the case of applications to aid in the construction of new schools of medicine, osteopathy, or dentistry, the Secretary shall give special consideration to those applications which contain or are reasonably supported by assurances that, because of the use that will be made of existing facilities (including Federal medical or dental facilities), the school will be able to accelerate the date on which it will begin its teaching program. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, §§ 102(e), (f)(1), (2)(A), (g), (h), (j) (2), (3), (7)(A), 108(b)(1), 85 Stat. 434–437, 461.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (c)(5), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General".

Subsec. (b)(1)(C). Pub. L. 92–157, § 102(f)(1), added cl. (C).

Subsec. (b)(2). Pub. L. 92–157, § 102(f)(2)(A), made provision applicable to affiliated outpatient facility, provided for approval of application by school of dentistry, and substituted section "291e" for "291h" of this title.

Subsec. (b)(3). Pub. L. 92–157, § 102(f)(2)(A), made provision applicable to affiliated outpatient facility, substituted section "291o" for "291i" of this title in opening text and "Secretary" for "Surgeon General" in cls. (A)–(C), and inserted cl. (C) provision making projects which are needed to meet an increase in enrollment eligible for payments.

Subsec. (c). Pub. L. 92–157, §§ 102(j)(7)(A), 108(b)(1), substituted "Secretary" for "Surgeon General" in the text preceding par. (1) and last sentence following par. (7) and also in such sentence National Advisory Council on "Health Professions Education" for "Education for Health Professions", respectively.

Subsec. (c)(2). Pub. L. 92–157, § 102(h), added provision respecting waiver of enrollment increase requirement and substituted section "295f(f)" for "295f–1(b)" of this title, respectively.

Subsec. (c)(3). Pub. L. 92–157, § 102(j)(2), incorporated in cl. (A) provisions of former cl. (B) respecting schools of dentistry, redesignated former cl. (C) as (B), provided in such cl. (B) for facilities required to meet increase in student enrollment, and deleted former provision of cl. (A), former cl. (B), and former cl. (C) respecting grants from funds appropriated pursuant to cls. (1), (2), and (3) of section 293 of this title.

Subsec. (c)(6). Pub. L. 92–157, § 102(j)(3), substituted "which is a hospital or outpatient facility, as defined in section 291o of this title" for "which is a hospital or diagnostic or treatment center, as defined in section 291i of this title".

Subsec. (c)(7). Pub. L. 92–157, § 102(g), added par. (7).

Subsec. (d). Pub. L. 92–157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General" in opening text.

Subsec. (e). Pub. L. 92–157, § 102(e), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294, 294d, 295e–2, 295f, 295g of this title.

§ 293b. Amount of grant.

(a) Maximum payments.

(1) Except as provided in paragraph (2) of this subsection, the amount of any grant under this part shall be such amount as the Secretary determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant (i) for a project for a new school, (ii) for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, and (iii) for a project for major remodeling or renovation of an existing facility where such project is required to meet an increase in student enrollment, such amount may not exceed 80 per centum of the necessary cost of construction, as determined by the Secretary, of such project; and (B) in the case of any other grant, such amount may not, except where the Secretary determines that unusual circumstances (such as a school located in a geographical area of the United States with a critical shortage of health profession manpower) make a larger percentage (which in no case may exceed 80 per centum) necessary in order to effectuate the purposes of this part, exceed 70 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) The amount of any grant under this part for construction of a project with respect to a school of public health shall be such amount as the Secretary determines to be appropriate after obtaining the advice of the Council, and may not exceed 75 per centum of the necessary cost of construction, as determined by the Secretary, of such project.

(b) Reservation of amount of grants; manner of payments.

Upon approval of any application for a grant under this part, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

* * * * *

(d) Grants for multipurpose facilities.

In the case of a project for construction of facilities which are primarily (as determined in accordance with regulations of the Secretary) for teaching purposes and for which a grant may be made under this part, but which also are for research purposes, or research and related purposes, in the sciences related to health (within the meaning of part A of this subchapter) or for medical library purposes (within the meaning of part J of subchapter II of this chapter), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(b), (j)(4), (7), 85 Stat. 431, 436, 437.)

AMENDMENTS

1971—Pub. L. 92–157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (a)(1), (a)(1)(A), (a)(2), and (b) of this section.

Subsec. (a)(1)(A). Pub. L. 92–157, § 102(b)(1), inserted item "(i)" designation before "for a project," substituted item "(ii)" designation for "and in the case of a grant", added item "(iii)", and increased percentage payments from "662/3" to "80".

Subsec. (a)(1)(B). Pub. L. 92–157, § 102(b)(2), increased percentage payments from "50" to "70" and the upper limits from "66⅔" to "80" per centum, and identified an unusual circumstances as being one "(such as a school located in a geographical area of the United States with a critical shortage of health profession manpower)".

Subsec. (b). Pub. L. 92–157, § 102(j)(7)(B), substituted "Secretary's" for "Surgeon General's".

Subsec. (d). Pub. L. 92–157, § 102(j)(4), substituted "medical library purposes (within the meaning of part J of subchapter II of this chapter)" for "medical library purposes (within the meaning of part I of subchapter II of this chapter)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293c of this title.

§ 293c. Recapture of payments.

If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit school or, in case the facility was an affiliated hospital or outpatient facility, the applicant or other owner of the facility ceases to be a public or other nonprofit agency qualified to file an application under section 291e of this title, or

(b) the facility shall cease to be used for the teaching purposes (and the other purposes permitted under section 293b of this title) for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so, or

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(c)(5), (f)(2)(C), (j)(1), (5), 85 Stat. 432, 435–437.)

AMENDMENTS

1971—Pub. L. 92–157, § 102(c)(5), inserted in introductory text following "twenty years" the parenthetical phrase "(or in the case of interim facilities, within such shorter period as the Secretary shall be regulation prescribe)".

Subsec. (a). Pub. L. 92–157, § 102(f)(2)(C), (j)(1), inserted "or outpatient facility" following "affiliated hospital" and substituted section "291e" for "291h" of this title, respectively.

Subsec. (b). Pub. L. 92–157, § 102(j)(5), inserted "or" at the end of the text.

§ 293d. Definitions.

As used in this part and parts C, E, and F—

(1) The terms "construction" and "cost of construction" include (A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(3) The term "affiliated hospital or affiliated outpatient facility" means a hospital or outpatient facility, as defined in section 291o of this title, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine, osteopathy, or dentistry which meets the eligibility conditions set forth in section 293a(b)(1) of this title.

(4) The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school.

(5) The term "teaching facilities" means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

(6) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(c)(1)–(4), (f)(2)(B), 85 Stat. 431, 432, 435.)

AMENDMENTS

1971—Par. (1). Pub. L. 92–157, § 102(c)(1), (4), defined terms "construction" and "cost of construction" to include in cl. (A) the acquisition of existing buildings and substituted a period for a semicolon as the end punctuation, respectively.

Par. (2). Pub. L. 92–157, § 102(c)(4), substituted a period for a semicolon as the end punctuation.

Part. (3). Pub. L. 92–157, § 102(f)(2)(B), included definition for "affiliated outpatient facility", substituted reference to section "291o" for "291l" of this title, and included affiliation with a school of dentistry.

Par. (4). Pub. L. 92–157, § 102(c)(3), (4), substituted "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", and substituted a period for a semicolon as the end punctuation, deleting "and" following the punctuation, respectively.

Par. (5). Pub. L. 92–157, § 102(c)(2), substituted definition of "teaching facilities" for definition of "school of nursing".

Par. (6). Pub. L. 92–157, § 102(c)(2), added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e–3 of this title; title 20 sections 751, 1132e–1.

§ 293e. National Advisory Council on Education for Health Professions.

(a) Establishment; composition; selection of members.

There is established in the Public Health Service a National Advisory Council on Health Professions Education (hereafter in this section referred to as the "Council"), consisting of the Secretary (or his delegate), who shall be Chairman of the Council, and twenty members appointed by the Secretary (without regard to the provisions of Title 5 relating to appointments in the competitive service) from persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by parts B, C, D, E, and F of this subchapter. At least four of the appointed members shall be selected from the general public and two shall be selected from among full-time students enrolled in health professions schools.

(b) Functions.

The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter (other than parts A and G thereof).

(c) Administration.

The Secretary may use the services of any member or members of the Council in connection with matters related to the administration of this subchapter (other than parts A and G thereof), for such periods, in addition to conference periods, as he may determine. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 108(a), 85 Stat. 460.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157 substituted "National Advisory Council on Health Professions Education" for "National Advisory Council on Education for Health Professions", "Secretary (or his delegate)" for "Surgeon General", eliminated ex officio status of the Surgeon General and the Commissioner of Education, increased membership from seventeen to twenty, substituted provision respecting appointments because of education, experience, or training of the appointees for prior provisions for selection from leading authorities in the fields of higher education, nine of whom to be particularly concerned with training in medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health professions, and spelling out certain factors such as experience in planning, constructing, financing, or administration of schools and familiarity with need for teaching facilities in all areas of the Nation, and provided for two appointees from among full-time students enrolled in health professions schools.

Subsec. (b). Pub. L. 92–157 substituted "Secretary" for "Surgeon General" and "administration of this subchapter (other than parts A and G thereof)" for "administration of this part" and eliminated provision respecting advisory function in reviewing applications under this part.

Subsec. (c). Pub. L. 92–157 substituted "Secretary" for "Surgeon General", and "administration of this subchapter (other than parts A and G thereof)" for "administration of this part" and eliminated sentence for consultation between and coordination of work of Council and National Advisory Council on Health Research Facilities relating to matters of this part.

Subsec. (d). Pub. L. 92–157 struck out subsec. (d) compensation and travel expenses provisions. Such subsec. (d) had previously been repealed by Pub. L. 91–515. See 1970 Amendment Note.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 295f–5, 295g of this title.

§ 293g. Regulations.

(a) The Secretary, after consultation with the Council, shall prescribe general regulations for this part covering the eligibility of institutions, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of institutions.

(b) The Secretary may make such other regulations as he finds necessary to carry out the provisions of this part. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(j)(7)(B), 85 Stat. 437.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–157 substituted "The Secretary, after consultation with the Council" for "The Surgeon General, after consultation with the Council and with the approval of the Secretary".

Subsec. (b). Pub. L. 92–157 substituted "The Secretary may make" for "The Surgeon General is authorized to make, with the approval of the Secretary".

§ 293h. Technical assistance.

The Secretary may provide technical assistance (1) to applicants under this part and other public or nonprofit private schools, agencies, organizations,

and institutions, and combinations thereof, in designing and planning the construction of any facility for which financial assistance may be provided under this part, and (2) to State or interstate planning agencies established to plan programs for relieving shortages of training capacity for health personnel. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(i), 85 Stat. 436.)

AMENDMENTS

1971—Pub. L. 92–157, in revising the text, authorized the Secretary, rather than the Surgeon General, to provide technical assistance, provided for the assistance to applicants under this part and other public or nonprofit private schools, agencies, organizations, and institutions, and combinations thereof and to State or interstate planning agencies, formerly limited to State or interstate planning agencies, substituted provision respecting planning of programs for relieving shortages of training capacity for health personnel for former provision for relieving such shortages in the fields of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and public health, and substituted provision for assistance in designing and planning the construction of facilities for former provision for assistance through constructing teaching facilities, providing adequate financial support to schools, or otherwise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 293i. Loan guarantees and interest subsidies.

(a) Eligibility of private entity; commitments; percentage limitation.

To assist nonprofit private entities to carry out approved construction projects for teaching facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of June 30, 1974, guarantee (in accordance with this section and subject to subsection (f) of this section) to any non-Federal lender which makes a loan to such an entity for such a project payment when due of the principal of and interest on such loan if such entity is eligible (as determined under regulations of the Secretary) for a grant under this part for such project. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee (1) may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 per centum of the cost of construction of the project, or (2) may apply to more than 90 per centum of the loss of principal of and interest on the loan.

(b) Amount of interest subsidy.

In the case of any nonprofit private entity which is eligible (as determined under regulations of the Secretary) for a grant under this part to assist it in carrying out an approved construction project for teaching facilities after June 30, 1971, and to whom a loan has been made by a non-Federal lender to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of June 30, 1974, may, subject to subsection (f) of this section, pay to the holder of such loan (and for and on behalf of the entity which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) Application; contents; approval by Secretary; terms, conditions, security, and repayments schedule; interest rate; loan not otherwise available.

A loan guarantee or interest subsidy payment may be made under this section only upon an application (submitted in such manner and containing such information as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) Recovery right; waiver; subrogation; modification of terms and conditions; incontestability: fraud or misrepresentation exceptions.

(1) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) Loan guarantee and interest subsidy fund; establishment; fiscal year availability; sources of moneys: appropriations authorization; operations under section; notes or obligations: issuance by Secretary, forms and denominations, maturities, terms and conditions, interest rate, purchase and sale by Secretary of Treasury: conditions and restrictions, redemption.

There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time

such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed $8,000,000 in the fiscal year ending June 30, 1972, $16,000,000 in the fiscal year ending June 30, 1973, and $24,000,000 in the fiscal year ending June 30, 1974. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f) Limitations.

(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) of this section and no agreement to make interest subsidy payments may be entered into under subsection (b) of this section if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) of this section in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) of this section and with respect to which an agreement to make interest subsidy payments is entered into under subsection (b) of this section in such fiscal year,

to exceed the amount of grant funds obligated under this part in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this part in such fiscal year equals the sums appropriated for such fiscal year under section 293 of this title.

(g) Administrative assistance.

The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof. (July 1, 1944, ch. 373, title VII, § 729, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 102(d), 85 Stat. 432.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

That Act, referred to in subsec. (e), means the Second Liberty Bond Act.

PART C.—STUDENT LOANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293d, 293e of this title.

Subpart I.—Loans to Students Studying in the United States

AMENDMENTS

1971—Pub. L. 92–157, title I, § 105(f)(1), Nov. 18, 1971, 85 Stat. 451, added the heading of subpart I.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 294g, 295g–1 of this title.

§ 294. Loan agreements for establishment of student loan funds.

(a) Authority of Secretary of Health, Education, and Welfare.

The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 293a(b)(1)(B) of this title.

(b) Terms and conditions.

Each agreement entered into under this section shall—

* * * * * *

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree and that

while the agreement remains in effect no such student who has attended such school before July 1, 1975 shall receive a loan from a loan fund established under section 424 of Title 20; and

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e) (1), (4), (f) (2), 85 Stat. 451; Aug. 23, 1974, Pub. L. 93–385, § 2(b), 88 Stat. 741.)

AMENDMENTS

1974—Subsec. (b) (4). Pub. L. 93–385 substituted "1975" for "1974".

1971—Subsec. (a). Pub. L. 92–157, § 105(f) (2), substituted "this subpart" for "this part".

Subsec. (b) (4). Pub. L. 92–157, § 105(e) (1), (4), substituted "1974" for "1971" and "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294c, 294d, 294f of this title.

§ 294a. Loan provisions.

(a) Academic year limitation.

Loans from a loan fund established under this subpart may not exceed $3,500 for any student for any academic year or its equivalent.

(b) School determination of terms and conditions; needy students eligible.

Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c) Repayment in periodic installments; acceleration; commencement and duration of period; exclusions from period.

Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act; and periods of advanced professional training including internships and residencies) [1]

* * * * *

(f) Payment of principal and interest for practice in physician etc. shortage areas; limitation; liability for reimbursement; election of loan cancellation under amended or original provisions.

(1) In the case of any individual—

(A) who has received a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, or doctor of podiatry or an equivalent degree;

(B) who obtained (i) one or more loans from a loan fund established under this part, or (ii) any other educational loan for his costs at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry; and

(C) who enters into an agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State designated under section 254b(b) of this title or otherwise determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations) to have a shortage of and need for persons trained in his profession;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of his described in subparagraph (B) of this paragraph which is outstanding on the date he begins the practice specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the practice specified in the agreement he entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1) (B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such practice, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such practice, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or (2) (C), and that he will continue to be so engaged for the period required (in the absence of this paragraph) to entitle him to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) shall be liable to reimburse the Secretary for any

[1] So in original. There is no opening parenthesis.

payments made pursuant to paragraph (2)(A) or paragraph (3) in consideration of such agreement.

(5) Notwithstanding the amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 to this subsection—

(A) any person who obtained one or more loans from a loan fund established under this part, who before the date of the enactment of such Act became eligible for cancellation of all or part of such loans (including accrued interest) under this subsection (as in effect on the day before such date), and who on such date was not engaged in a practice for which loan cancellation was authorized under this subsection (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this part and who on such date was engaged in a practice for which cancellation of all or part of such loans (including accrued interest) was authorized under this subsection (as so in effect), this subsection (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such practice.

Nothing in this paragraph shall be construed to prevent any person from entering into an agreement for loan cancellation under this subsection (as amended by section 105(b)(1) of such Act).

(g) Security or endorsement; minor borrowers.

Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h) Transfer or assignment of evidences of loans.

No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart such note or other evidence of a loan may be transferred to such other school.

* * * * *

(j) Penalty for late payment.

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) of this section or cancellation of part or all of the loan under subsection (f) of this section, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(k) Minimum monthly repayment.

A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(l) Repayment by Secretary after determination of compliance with certain conditions.

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete such studies leading to his first professional degree;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, within two years following the date upon which he terminated such studies.

(As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 105(b)–(d), (e)(4), (f)(2), 85 Stat. 449, 451; Oct. 27, 1972, Pub. L. 92–585, § 4, 86 Stat. 1293.)

REFERENCES IN TEXT

Amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 and of such Act, referred to in subsec. (f)(5), opening and closing provisions, refers to amendment made by Pub. L. 92–157 as described in 1971 Amendment note hereunder.

Date of the enactment of such Act, referred to in subsec. (f)(5)(A), means Nov. 18, 1971, the date of approval of Pub. L. 92–157.

AMENDMENTS

1972—Subsec. (f)(1)(C). Pub. L. 92–585 added references to members of the National Health Service Corps or otherwise and areas in a State designated under section 254b(b) of this title.

1971—Pub. L. 92–157, § 105(f)(2), substituted "this subpart" for "this part" wherever appearing in subsecs. (a), (g), (h), (j), and (k).

Subsec. (a). Pub. L. 92–157, § 105(c), increased academic year limitation from $2,500 to $3,500 and struck out second sentence provisions for preference in grant of loans to persons who entered as first-year students after June 30, 1963.

Subsec. (b). Pub. L. 92–157, § 105(e)(4), substituted "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", respectively.

Subsec. (c). Pub. L. 92–157, § 105(d). struck out "(up to five years)" preceding "of advanced professional training".

Subsec. (f). Pub. L. 92–157, § 105(b)(1), revised loan repayment and forgiveness provisions substantially, and

among other changes, extended the benefits to doctor of veterinary medicine, bachelor of science in pharmacy, doctor of podiatry, and equivalent degrees for professions listed, made provisions more certain in their application to doctor of osteopathy, made individuals eligible for payments limited to 85 per centum, 30 for first and second and 25 third years, in physician shortage areas, and allowed election of benefits under new provisions or coverage under prior provisions which permitted 10 per centum up to maximum of 50 in physician shortage areas and authorized 15 per centum per year up to an additional 50 per-centum for total of 100 per centum in rural areas with low family income.

Subsec. (*l*). Pub. L. 92–357, § 105(b)(2), added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 294d, 295g–21, 3505d of this title.

§ 294b. Authorization of appropriations.

(a) Availability for health professions education fund and for school loan funds.

For the purpose of—

(1) making Federal capital contributions into the loan funds of schools which have established loan funds under this part,

(2) making payments into the fund established by section 294d(d) of this title, and

(3) making transfers under section 294f of this title,

there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1972, $55,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975. For the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1974, to continue or complete their education.

(b) Time for applications for capital contributions or loans; reduction of allotments; reallotments; allotment of excess funds; payments in installments to prevent accumulations.

* * * * *

(3) Funds available in any fiscal year for payment to schools under this subpart (whether as Federal capital contributions or as loans to schools under section 294d of this title) which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

* * * * *

(As amended July 9, 1971, Pub. L. 92–52, § 1(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(a), (f)(2), 85 Stat. 449, 451; Aug. 23, 1974, Pub. L. 93–385, § 2(a), 88 Stat. 741.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–385 authorized appropriations of $60,000,000 for the fiscal year ending June 30, 1975.

1971—Subsec. (a). Pub. L. 92–157, § 105(a), authorized appropriations of $55,000,000 and $60,000,000 for fiscal years ending June 30, 1973, and 1974, increased appropriation for fiscal year ending June 30, 1972, from $35,000,000 to $50,000,000; substituted authorization for fiscal year ending June 30, 1975, and two succeeding fiscal, years for students receiving loans for academic years ending before July 1, 1974, to continue or complete their education for former provision for necessary funds for fiscal year ending June 30, 1973, and two succeeding years for students receiving loans for academic years ending before July 1, 1972, and eliminated as executed appropriations authorization for fiscal years June 30, 1964, through 1971, of $5,100.000 (1964), $10.200,000 (1965), $15,400,000 (1966), $25,000,000 (1967, 1968, and 1969), $35,000,000 (1970 and 1971), respectively, and separate appropriation of half-million, million, and million-and-half dollars for students of veterinary medicine for fiscal years ending June 30, 1967, 1968, and 1969.

Pub. L. 92–52 substituted "the next two fiscal years" for "the next fiscal year", "1973" for "1972" and "1972" for "1971".

Subsec. (b)(3). Pub. L. 92–157, § 105(f)(2), substituted "this subpart" for "this part" in two instances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294d of this title.

§ 294c. Distribution of assets from loan funds.

(a) After June 30, 1977, and not later than September 30, 1977, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 294(b) of this title by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1977, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 294(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 294(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1977, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1977, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 294d(d) of this title) as was determined for the Secretary under subsection (a) of this section. (As amended July 9, 1971, Pub. L. 92–52, § 1(b), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(2), (f)(2), 85 Stat. 451.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "1977" for "1975" wherever appearing and "this subpart" for "this part" in subsec. (b), respectively.

Pub. L. 92–52 substituted "1975" for "1974" in five places.

§ 294d. Loans to schools to capitalize health professions student loan funds.

(a) Fiscal years available; terms, conditions, and limitations; institutional contributions; interest.

(1) During the fiscal years ending June 30, 1967, and June 30, 1968, and each of the next six fiscal years, the Secretary may make loans, from the revolving fund established by subsection (d) of this section, to any public or other nonprofit school referred to in section 294(a) of this title which is located in a State and is accredited as provided in section 293a (b)(1)(B) of this title, to provide all or part of the capital needed by any

such school for making loans to students under this section (other than capital needed to finance the institutional contributions required by section 294 (b) (2) (B) of this title). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 294a of this title. The requirement in section 294(b) (2) (B) of this title with respect to institutional contributions to student loan funds shall not apply to loans made to schools under this section.

* * * * *

(c) Limitation on loans from revolving fund.

The total of the loans made in any fiscal year under this section may not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $45,000,000 and the amount of Federal funds (other than loans under this section) deposited in student loan funds under this subpart for that year.

* * * * *

(As amended July 9, 1971, Pub. L. 92–52, § 1(c), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105 (e) (3), (f) (2), 85 Stat. 451.)

AMENDMENTS

1971—Subsec. (a) (1). Pub. L. 92–157, § 105(e) (3), substituted "next six fiscal years" for "next four fiscal years".

Pub. L. 92–52 substituted "next four fiscal years" for "next three fiscal years".

Subsec. (c). Pub. L. 92–157, § 105(f) (2), substituted "this subpart" for "this part".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294b, 294c of this title.

§ 294e. Administrative provisions.

The Secretary may agree to modifications of agreements, or loans made under this subpart and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 105(f) (2), 85 Stat. 451.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "this subpart" for "this part" in two instances.

§ 294f. Transfer of funds to scholarships.

Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for Federal capital contributions under an agreement under this subpart, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under subpart I of part F of this subchapter to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 294(b) (2) (B) of this title with respect to the amount so transferred may be withdrawn by the school from such fund. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, §§ 105(f) (2), 106(b) (5), 85 Stat. 451, 453.)

AMENDMENTS

1971—Pub. 92–157 substituted "this subpart" and "subpart I of part F" for "this part" and "part F", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 294b of this title.

Subpart II.—Student Loans by Secretary to Citizens of United States Who Are Full-Time Students in Schools of Medicine Located Outside United States [New]

AMENDMENTS

1971—Pub. L. 97–157, title I, § 105(f) (4), Nov. 18, 1971, 85 Stat. 451, added the heading of subpart II.

§ 294g. Student loans.

(a) Authority of Secretary.

From the amounts appropriated to carry out this subpart, the Secretary is authorized to make, in accordance with this subpart, loans to citizens of the United States who are full-time students in schools of medicine which are located outside the United States.

(b) Terms and conditions.

Except as otherwise provided in this subpart, loans made under this subpart shall (to the extent feasible) be made on the same terms and conditions as are required with respect to loans made to students of medicine under the program established by subpart I of this part.

(c) Special conditions.

(1) No loan under this subpart shall be made to any student unless—

(A) prior to the date such student files application for such loan—

(i) he has made application for admission as a student in a school of medicine which is located in the United States; and

(ii) he has, in connection with the making of such application for admission to such school, undergone a written examination to determine his qualifications for admission as a student in such school;

(B) such student furnishes to the Secretary a certification from such school that—

(i) such student is qualified for admission as a student in such school, and

(ii) such student was denied admission as a student in such school solely because, for the school year for which such student applied for admission to such school, the number of qualified applicants for admission to such school exceeded the maximum number of students (as determined by such school) which such school was prepared to accept for admission for such year; and

(C) such student has not been accepted, before the date of approval of his application for a loan under this subpart, by a medical school located in the United States.

(2) No loan under this subpart shall be made to any student who has completed three years as a student in a school of medicine, unless—

(A) such student has passed an examination which—

(i) is prepared by a body or bodies which the Secretary recognizes as being qualified to prepare such an examination, and

(ii) is used to determine the qualifications of students in schools of medicine which are located outside the United States for admission (as transfer students) in schools of medicine which are located in the United States; and

(B) such student has made application for admission (as a transfer student) to, but has not been accepted by, a school of medicine which is located in the United States.

(d) Authorization of appropriations.

To carry out this subpart there are authorized to be appropriated $1,750,000 for the fiscal year ending June 30, 1972, and for each of the next two fiscal years. (July 1, 1944, ch. 373, title VII, § 747, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 105(f)(4), 85 Stat. 451.)

PART D.—GRANTS FOR FAMILY MEDICINE, TRAINING, TRAINEESHIPS, AND FELLOWSHIPS AND COMPUTER TECHNOLOGY HEALTH CARE DEMONSTRATION PROGRAMS

AMENDMENTS

1971—Pub. L. 92–157, title I, § 107(a), Nov. 18, 1971, 85 Stat. 457, substituted as the heading of Part D "Grants for Family Medicine, Training, Traineeships, and Fellowships and Computer Technology Health Care Demonstration Programs" for "Grants for Construction of Mental Retardation Research Facilities".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293e, 300a–7, 1320a–1 of this title.

§ 295. Congressional declaration of purpose.

It is the purpose of this part to provide for the making of grants to assist—

(1) public and private nonprofit medical schools—

(A) to operate, as an integral part of their medical education program, separate and distinct departments devoted to providing teaching and instruction (including continuing education) in all phases of family practice;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

(C) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine; and

(D) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools; and

(2) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

(A) to operate, as an integral part of their medical training programs, special professional training programs (including continuing education) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate out-patient or similar facility;

(C) to provide financial assistance (in the form of scholarships, fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purposes by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

(D) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

(July 1, 1944, ch. 373, title VII, § 761, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–1.)

CODIFICATION

Prior section 295, act July 1, 1944, ch. 373, title VII, § 761, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282, which related to authorization of appropriations respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

FEASIBILITY STUDY COVERING ESTABLISHMENT OF COURSES DEALING WITH NUTRITION AND PROBLEMS RELATED TO MALNUTRITION

Section 201 of Pub. L. 91–696 provided that:

"(a) The Secretary of Health, Education, and Welfare shall conduct a study, in cooperation with schools training health professional manpower, of the feasibility and desirability of establishing at such schools courses dealing with nutrition and problems related to malnutrition, and of establishing research programs and pilot projects in the field of nutrition and problems of malnutrition.

"(b) The Secretary is authorized to make grants to health professional schools, in connection with the study provided for by subsection (a), for the planning of programs at such schools, and for the conduct of pilot projects at such schools, to assist such schools in the establishment of courses dealing with nutrition and problems related to malnutrition.

"(c) The Secretary shall report to the President and to Congress by July 1, 1972, the results of such study, together with such recommendations as he deems advisable.

"(d) There is authorized to be appropriated $5,000,000 to carry out the purposes of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295b, 295d, 295d–1, 300a–7 of this title.

§ 295a. Authorization of appropriations.

(a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1971, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

(b) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year. (July 1, 1944, ch. 373, title VII, § 762, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2.)

CODIFICATION

Prior section 295a, act July 1, 1944, ch. 373, title VII, § 762, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282, which related to applications for grants for construction of mental retardation facilities, including their approval by Surgeon General and consideration of certain matters, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which

enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295b, 295d–1 of this title.

§ 295b. Grants by Secretary.

(a) Authority.

From the sums appropriated pursuant to section 295a of this title, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 295 of this title.

(b) Application for grant.

No grant shall be made under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than six months after December 25, 1970.

(c) Limitations and conditions.

Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

(d) Protection of financial interests of United States.

In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the twenty-year period which commences on the date such construction or remodeling is completed.

(e) Use of grant funds; method of payment.

Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments, as the Secretary may determine. (July 1, 1944, ch. 373, title VII, § 763, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2.)

CODIFICATION

Prior section 295b, act July 1, 1944, ch. 373, title VII, § 763, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283, which related to amount of grants for construction of mental retardation facilities, including maximum payments, advances or reimbursement, installments, conditions, and nonduplication of grants, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295d of this title.

§ 295c. Eligibility for grants.

(a) In order for any medical school to be eligible for a grant under this part, such school—

(1) must be a public or other nonprofit school of medicine; and

(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirements of this clause shall be deemed to be satisfied, if (A) in the case of a school of medicine which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(b) In order for any hospital to be eligible for a grant under this part, such hospital—

(1) must be a public or private nonprofit hospital; and

(2) must conduct or be prepared to conduct in connection with its other activities(whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

(July 1, 1944, ch. 373, title VII, § 764, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2.)

CODIFICATION

Prior section 295c, act July 1, 1944, ch. 373, title VII, § 764, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283, which related to recovery of expenditures under certain conditions respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295d of this title.

§ 295d. Approval of grants.

(a) Requisites for approval.

The Secretary, upon the recommendation of the Advisory Council on Family Medicine, is authorized to make grants under this part upon the determination that—

(1) the applicant meets the eligibility requirements set forth in section 295c of this title;

(2) the applicant has complied with the requirements of section 295b of this title;

(3) the grant is to be used for one or more of the purposes set forth in section 295 of this title;

(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement

of and accounting for all Federal funds paid to the applicant under this part; and

(6) the application contains or is supported by adequate assurances that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(b) Establishment of separate medical school departments of family medicine; establishment of special hospital programs of family medicine.

The Secretary shall not approve any grant to—

(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical specialty disciplines; and

(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

(c) Supplementing of non-Federal funds.

The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested. (July 1, 1944, ch. 373, title VII, § 765, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–3.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(6), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(6), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Prior section 295d, act July 1, 1944, ch. 373, title VII, § 765, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284, which related to noninterference with administration of institutions respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

§ 295d–1. Planning and developmental grants.

(a) For the purpose of assisting medical schools and hospitals (referred to in section 295 of this title) to plan or develop programs or projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1973) to make planning and developmental grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

(b) From the amounts appropriated in any fiscal year (prior to the fiscal year ending June 30, 1973) pursuant to section 295a(a) of this title, the Secretary may utilize such amounts as he deems necessary (but not in excess of $8,000,000 for any fiscal year) to make the planning and developmental grants authorized by subsection (a) of this section. (July 1, 1944, ch. 373, title VII, § 766, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–4.)

CODIFICATION

Prior section 295d–1, act July 1, 1944, ch. 373, Title VII, § 766, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284, which related to definitions in connection with grants for construction of mental retardation research facilities, was eliminated in the general amendment of Part A of Pub. L. 88–164, title I by section 125 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

§ 295d–2. Advisory Council on Family Medicine.

(a) Appointment; membership.

The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the "Council"). The Council shall consist of twelve members, four of whom shall be physicians engaged in the practice of family medicine, four of whom shall be physicians engaged in the teaching of family medicine, three of whom shall be representatives of the general public, and one of whom shall, at the time of his appointment, be an intern in family medicine. Members of the Council shall be individuals who are not otherwise in the regular full-time employ of the United States.

(b) Term of office.

(1) Except as provided in paragraph (2), each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end

of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year, after the date of appointment.

(2) The member of the Council appointed as an intern in family medicine shall serve for one year.

(3) A member of the Council shall not be eligible to serve continuously for more than two terms.

(c) Compensation.

Members of the Council shall be appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. Members of the Council, while attending meetings and conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service, employed intermittently.

(d) Duties and functions of Council.

The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this part. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for, and of the amount of, grants under this part. (July 1, 1944, ch. 373, title VII, § 767, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–4.)

CODIFICATION

Another section 767 of act July 1, 1944, is set out as section 295e–1 of this title.

TERMINATION OF ADVISORY COUNCILS AND COMMITTEES

Advisory Councils and Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council or committee established by the President or an officer of the Federal Government, such council or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or committee established by the Congress, it duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 295e. Definitions.

For purposes of this part—

(1) the term "nonprofit" as applied to any hospital or school of medicine means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term "family medicine" means those certain principles and techniques and that certain body of medical, scientific, administrative, and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

(3) the term "practice of family medicine" and the term "practice", when used in connection with the term "family medicine", mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

(4) the term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, including architects' fees, but excluding the cost of acquisition of lands or offsite improvements.

(July 1, 1944, ch. 373, title VII, § 768, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–5.)

CODIFICATION

Another section 768 of act July 1, 1944, is set out as section 295e–2 of this title.

PRIOR PROVISIONS

A prior section 295e consisted of section 766 of Act July 1, 1944. The classification of section 766 of act July 1, 1944, has been changed to section 295d–1 of this title for purposes of codification.

§ 295e–1. Grants for training, traineeships, and fellowships in family medicine; authorization of appropriations.

There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, $35,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974, for grants by the Secretary to any public or nonprofit private hospital—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including continuing education and approved residency programs in family practice) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical students, interns, residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine; and

(3) to plan, develop, and operate, or participate in, other approved training programs in the field of family medicine.

(July 1, 1944, ch. 373, title VII, § 767, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 457.)

CODIFICATION

Another section 767 of act July 1, 1944, is set out as section 295d–2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e–5 of this title.

§ 295e–2. Grants for support of postgraduate training programs for physicians and dentists.

(a) Authorization of appropriations.

There are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1973, and $15,000,000 for the fiscal year ending June 30, 1974, for grants under subsection (b) of this section.

(b) Shortage of qualified physicians or dentists in primary care and other health care areas; amount of grant for fiscal year; computation of grant where total of grants exceeds appropriation.

(1) The Secretary shall make annual grants in accordance with this section to—

(A) public or nonprofit private schools of medicine, osteopathy, or dentistry, which are accredited as provided in section 293a(b)(1) of this title, and which have approved applications, and

(B) public or nonprofit private hospitals which are not affiliated with an accredited school of medicine, osteopathy, or dentistry, and which have approved applications,

to assist in meeting the educational costs of the first three years of full-time approved graduate training programs in the area of primary care or in any other area of health care (designated under subsection (c)(3)(B) of this section) in which there is a shortage of qualified physicians or dentists.

(2) The amount of grant under this subsection for any fiscal year to any school or hospital shall be equal to $3,000 for each physician or dentist enrolled in a graduate training program (A) described in paragraph (1) of this subsection, and (B) in the case of a grant to a school, conducted in clinical facilities of such schools or with which such school has a written agreement of affiliation, or, in the case of a grant to a hospital, conducted in such hospital; except that if the total of the grants to be made under this subsection for any fiscal year to schools and hospitals with approved applications exceeds the amounts appropriated under subsection (a) of this section for such grants, the amount of the grant for that fiscal year to each such school or hospital shall be an amount which bears the same ratio to the amount determined for the school or hospital for that fiscal year under the preceding sentence as the total of the amounts appropriated under subsection (a) of this section for that year bears to the amount required to make grants to each school in accordance with such sentence.

(3) For purposes of paragraph (2), the Secretary shall—

(A) in the case of a grant in the fiscal year ending June 30, 1973, count only the number of first-year physicians and dentists enrolled in graduate training programs described in paragraph (1), and

(B) in the case of a grant in the fiscal year ending June 30, 1974, count only the number of first- and second-year physicians and dentists enrolled in graduate training programs described in paragraph (1).

(c) Applications for grants; filing date; eligibility; contents; consultation with Council; definition of "primary health care"; designation of other health care areas; guidelines for applicants.

(1) The Secretary may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applicants for grants under subsection (b) of this section for any fiscal year must be filed.

(2) A grant under subsection (b) of this section may be made only if the application therefor—

(A) is approved by the Secretary upon his determination that the applicant meets the eligibility conditions set forth in paragraph (1) of such subsection.

(B) contains a specific program or programs which such applicant has undertaken to encourage physicians and dentists to enroll in graduate training programs described in paragraph (1) of this subsection;

(C) contains or is supported by assurances that such applicant will increase the number of graduate training positions open to physicians and dentists in such graduate training programs;

(D) provides for such fiscal control and accounting procedures, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for any such grant;

(E) contains a statement in such detail as the Secretary may determine necessary, describing the manner in which any grant made under subsection (b) of this section will be applied to meet the educational costs of the graduate training program for which the grant is made, including any payments from a grant proposed to be made by an applicant which is a school to any clinical facility which participates in such training program under a written agreement of affiliation with the applicant and which shares in the payment of the educational costs of such program; and

(F) contains such additional information as the Secretary may require to make the determinations required of him under this section, and such assurances as he may find necessary.

(3) The Secretary—

(A) shall not approve or disapprove any application for a grant under subsection (b) of this section except after consultation with the National Advisory Council on Health Professions Education;

(B) shall define in consultation with such Council, those health care fields included within the term "primary health care" and shall designate any other areas of health care in which there is a shortage of qualified physicians and dentists; and

(C) shall, on an annual basis, establish guidelines specifying such absolute or percentage increases in the numbers of physicians or dentists receiving full-time graduate training which any applicant receiving a grant under subsection (b) of this section as may be required to meet as a condition of such a grant.

(July 1, 1944, ch. 373, title VII, § 768, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 458.)

CODIFICATION

Another section 768 of Act July 1, 1944, is set out as section 295e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295g–21 of this title.

§ 295e–3. Grants for training, traineeships, and fellowships for health professions teaching personnel.

(a) Authorization of appropriations.

There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and $20,000,000 for the fiscal year ending June 30, 1974, for grants under this section.

(b) Authority of Secretary.

The Secretary may make grants under this section to public and nonprofit private schools of medicine, dentistry, osteopathy, podiatry, optometry, pharmacy, and veterinary medicine (as such schools are defined in section 293d of this title) for training (at such schools or elsewhere), and traneeships and fellowships for the advanced training, of individuals to enable them to teach, or improve their teaching skills, in the medical, dental, osteopathic, podiatric, optometric, pharmaceutical, or veterinary medicine fields.

(c) Percentage limitation for traineeships and fellowships.

Not less than 75 per centum of any grant under this section to any school shall be used by the school for traineeships and fellowships. (July 1, 1944, ch. 373, title VII, § 769, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 459.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e–5 of this title.

§ 295e–4. Grants for computer technology health care demonstration programs; authorization of appropriations.

There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972, $10,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 for the fiscal year ending June 30, 1974, for grants by the Secretary to public or nonprofit private schools, agencies, organizations, or institutions, and combinations thereof, to—

(1) plan and develop free-standing or university-based computer laboratories which would establish computer-based systems, including compatible languages, standard terminologies, communication networks, and decisionmaking strategies, to enable the utilization of modern computer technologies by physicians and other health personnel in the provision of health services and in the processing of biomedical information relating to the provision of such services; and

(2) research through computer technology the functions performed by physicians to determine which functions could be appropriately transferred and performed by other appropriately trained personnel.

(July 1, 1944, ch. 373, title VII, § 769A as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 459.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e–5 of this title.

§ 295e–5. General provisions.

(a) Applications for grants: submission, approval by Secretary, regulations.

No grant may be made under sections 295e–1, 295e–3, and 295e–4 of this title unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(b) Payments limitation for traineeships and fellowships.

Payments by recipients of grants under sections 295e–1 and 295e–4 of this title for (1) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (2) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

(c) Amount of grant; determination by Secretary; payments: advances or reimbursement, intervals, conditions.

The amount of any grant under sections 295e–1, 295e–3, or 295e–4 of this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. (July 1, 1944, ch. 373, title VII, § 769B, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 460.)

PART E.—GRANTS AND CONTRACTS TO IMPROVE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY: HEALTH MANPOWER EDUCATION INITIATIVE AWARDS

AMENDMENTS

1971—Pub. L. 92–157, title I, § 104, Nov. 18, 1971, 85 Stat. 437, substituted as the heading of Part E "Grants and Contracts to Improve Quality of Schools of Medicine, Osteopathy, Dentistry, Veterinary Medicine, Optometry, Pharmacy, and Podiatry: Health Manpower Education Initiative Awards" for "Institutional and Special Project Grants for Training of Health Professions Personnel".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293d, 293e of this title.

§ 295f. Capitation grants.

(a) Grant computation.

The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with

an approved application shall be computed for each fiscal year as follows.

(1) Each school of medicine (other than a two-year school of medicine), osteopathy, and dentistry shall receive—

(A) in the case of full-time students enrolled in such school in such year in a training program which is more than three years, $2,500 for each such first-, second-, and third-year student and $4,000 for each such student who will graduate from such school in such year;

(B) in the case of full-time students enrolled in such school in such year in a training program which is not more than three years, $2,500 for each such student enrolled and $6,000 for each such student who will graduate from such school in such year;

(C) in the case of full-time students enrolled in such school in such year in a training program which is designed to permit such students to complete, within six years after completing secondary school, the requirements for the degree of doctor of medicine, $2,500 for each such student enrolled in such year in the last three years of such program and $6,000 for each such student who will graduate from such school in such year, and for purposes of subsections (d) and (f) of this section, a student enrolled in the first year of the last three years of such school's medical training program shall be considered a first-year student.

(D) $1,000 for each student who is enrolled in such year on a full-time basis in a program of such school for the training of physicians' assistants or dental therapists; and

(E) $1,000 for each enrollment bonus student (as determined under subsection (d) of this section) enrolled in such school in such year.

(2) Each two-year school of medicine shall receive (A) $2,500 for each full-time student enrolled in such school in such year in the last two years of the training program of such school; (B) $1,000 for each enrollment bonus student enrolled in such school in such year in such last two years; and (C) $1,000 for each student who is enrolled in such year on a full-time basis in a program of such school for the training of physicians' assistants. For purposes of subsections (d) and (f) of this section, a student enrolled in the first year of the last two years of such school's medical training program shall be considered a first-year student.

(3) Each school of veterinary medicine shall receive $1,750 for each full-time student, and $700 for each enrollment bonus student, enrolled in such school in such year.

(4) Each school of optometry shall receive $800 for each full-time student, and $320 for each enrollment bonus student, enrolled in such school in such year.

(5) Each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive $800 for each full-time student, and $320 for each enrollment bonus student, enrolled in such school in such year. Each school of pharmacy with a course of study of more than four years shall receive $800 for each full-time student enrolled in the last four years of such school and $320 for each enrollment bonus student enrolled in the last four years of such school. For purposes of subsections (d) and (f) of this section, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

(6) Each school of podiatry shall receive $800 for each full-time student, and $320 for each enrollment bonus student, enrolled in such school in such year.

That part of a grant to any school which is computed under this subsection on the number of enrollment bonus students enrolled in such school may not exceed $150,000 for each class in which such students are enrolled.

(b) Small medical, osteopathic, and dental schools.

If the first fiscal year (beginning after June 30, 1971) in which any school of medicine, osteopathy, or dentistry receives a grant under subsection (a) of this section is a fiscal year in which the number of first-year students enrolled in such school is not more than 50, then, in such year, and in the succeeding fiscal year, the amount of the grant payable to such school under subsection (a) of this section shall be increased by $50,000.

(c) Apportionment of appropriations.

If the total of the grants to be made under this section for any fiscal year—

(1) to schools of medicine, osteopathy, and dentistry with approved applications exceeds the amounts appropriated under subsection (j)(1) of this section for such grants, or

(2) to schools of veterinary medicine, optometry, pharmacy, and podiatry with approved applications exceeds the amounts appropriated under subsection (j)(2) of this section for such grants,

the amount of the grant for that fiscal year to each such school shall be an amount which bears the same ratio to the amount determined for the school for that fiscal year under the applicable provisions of subsections (a) and (b) of this section as the total of the amounts appropriated for that year under subsection (j)(1) or (j)(2) of this section, as the case may be, bears to the amount required to make grants in accordance with subsections (a) and (b) of this section to each school referred to in clause (1) or (2), as the case may be.

(d) Enrollment bonus student defined.

For the purposes of subsection (a) of this section, a full-time student enrolled for any school year in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry (other than a student enrolled in a program of such school for the training of physician's assistants or dental therapists and a student for whom a grant is made under section 295f–1 of this title) shall be considered to be an enrollment bonus student if—

(1) he enrolled in such school as a first-year student for a school year beginning after June 30, 1971; and

(2) the size of the class of first-year students which enrolled in such school for such school year

met the applicable requirement of subsection (e)(1)(A) or (e)(2)(A) of this section, and the application of such school for a grant under this section for the fiscal year in which such school year began met the applicable requirement of subsection (e)(1)(B) or (e)(2)(B) of this section.

Any student who is considered to be an enrollment bonus student for the school year for which he enrolled as a first-year student in a school shall be considered to be an enrollment bonus student for each school year thereafter for which he is enrolled in such school.

(e) Class size and application requirements for bonus enrollment students.

(1) School year 1971–1972.

If the school year for which a class enrolled as a class of first-year students in a school was the first school year beginning after June 30, 1971—

(A) the number of students who enrolled in such class for such school year must exceed the number of first-year students who enrolled in such school for the preceding school year by 5 per centum of such number or by five students, whichever is greater; and

(B) the application of such school for a grant under this section in the fiscal year ending June 30, 1972, must contain or be supported by reasonable assurances that, for the first school year beginning after June 30, 1972 and for each school year thereafter, the number of students enrolled in such school as class of first-year students will not be less than a number equal to the sum of—

(i) the minimum enrollment of first-year students required under subparagraph (A); and

(ii) 10 per centum of the number of first-year students enrolled for the first school year beginning after June 30, 1970, if such number was not more than 100 or, if such number was more than 100, 5 per centum of such number of ten students, whichever is greater.

(2) School years after school year 1971–1972.

If the school year for which a class enrolled as a class of first-year students in a school was any school year beginning after June 30, 1972—

(A) the number of students who enrolled in such class for such school year—

(i) if such school has not previously received a grant for bonus enrollment students, must be not less than the sum of (I) the minimum number of first-year students which such school is required pursuant to subsection (f) of this section (or would be required pursuant to subsection (f) of this section except for paragraph (2) thereof) to enroll for such school year, and (II) 5 per centum of that number or 5 students, whichever is greater; or

(ii) if such school has previously qualified for a bonus enrollment grant under this section, must be not less than the sum of (I) the minimum number of students which such school was required, pursuant to paragraph (1)(B) or (2)(B) (as the case may be), to assure the Secretary would be enrolled for such school year, and (II) 5 per centum of that number or 5 students, whichever is greater; or

(B) the application of such school for a grant under this section for the fiscal year in which such school year begins contains or is supported by reasonable assurances that, for the first school year beginning after the close of such fiscal year and for each fiscal year thereafter, the number of students enrolled in such school as a class of first-year students will not be less than the minimum number of students such school was required under subparagraph (A) to enroll as first-year students.

(f) Maintenance of effort and enrollment increase requirements.

(1) The Secretary shall not make a grant under this section to any school in a fiscal year beginning after June 30, 1971, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary—

(A) that for the first school year beginning after the close of the fiscal year in which such grant is first made and for each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1971—

(i) by 10 per centum of such number if such number was not more than 100, or

(ii) by 5 per centum of such number, or 10 students, whichever is greater, if such number was more than 100; and

(B) that the applicant will extend in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the 3 fiscal years immediately preceding the fiscal year for which such grant is sought.

The requirements of subparagraph (A) shall be in addition to the requirements of section 293a(c)(2) of this title, where applicable.

(2) The Secretary is authorized to waive (in whole or in part) the provisions of paragraph (1)(A) if he determines, after consultation with the National Advisory Council on Health Professions Education, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training or because of other relevant factors, be accomplished without lowering the quality of training provided therein.

(3) In those instances where enrollment increases proposed exceed the requirements of paragraph (1)(A), the Secretary shall satisfy himself, after consultation with the appropriate accreditation body or bodies (as defined in section 293a(b)(1) of this title), that there is reasonable assurance that such expanded program will meet the accreditation standards of such body or bodies.

(g) Plan requirement; on-site inspections; reports to congressional committees.

(1) In the case of a school which has not received a grant under subsection (a) of this section in a fiscal year beginning after June 30, 1971, an application by such school for a grant for a fiscal year beginning after that date shall contain or be accompanied by a plan to carry out or establish and carry out, during the two-school-year period commencing not later than the first day of the fiscal year next following the fiscal year in which the grant is made, specific projects in at least three of the following categories of projects or if the application is for a school of pharmacy, specific projects in the category described in clause (G) and specific projects in at least two other categories):

(A) Projects to effect significant improvements in the curriculum of such school (including projects for shortening of the length of time required to complete training programs provided by such school).

(B) Projects to establish cooperative interdisciplinary training among schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, veterinary medicine, nursing, public health, and allied health, including projects for training for the use of the team approach to the provision of health services.

(C) Projects to train for new roles, types, or levels of health personnel, including programs for the training of physicians' assistants, dental therapists, and other health professions' assistants, and nurse practitioners, in cooperation with appropriate academic institutions and hospitals.

(D) Projects to make innovative modifications of existing programs of education in the health professions, including projects for the teaching of the organization, provision, financing, or evaluation, of health care.

(E) Projects to assist in significantly increasing the supply of adequately trained personnel in the health professions needed to meet the health needs of the Nation.

(F) Projects to establish, at schools of medicine, osteopathy, or dentistry, increased emphasis on, and training in, the science of clinical pharmacology; diagnosis, treatment, and prevention of drug and alcohol use and abuse; the assessment of the efficacy of various therapeutic regimens, and; in the case of schools of medicine and osteopathy, the science of nutrition.

(G) Projects to provide, at schools of pharmacy, for increased emphasis on, and training in, clinical pharmacy, drug use and abuse, and where appropriate clinical pharmacology.

(H) Projects to increase admissions to, and enrollment and retention in, such schools of qualified individuals who, due to socioeconomic factors, are financially or educationally disadvantaged.

(I) Projects to train and educate primary care health professionals with particular emphasis (in the case of schools of medicine, osteopathy, and dentistry) upon the establishment of new, or expansion of existing, programs for training in family medicine.

(2) The Secretary may make on-site inspections of any school, or require the supplying of information or data from any school, receiving a grant under subsection (a) of this section to determine the extent to which such school is carrying out the specific projects required to be included in the plan submitted by such school (pursuant to paragraph (1)) in connection with its application for such grant.

(3) The Secretary shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives two reports containing full and complete information as to the extent to which schools receiving grants under subsection (a) of this section are carrying out the specific projects included in plans submitted by them pursuant to paragraph (1). The first such report shall be submitted not later than January 1, 1973, and the second such report shall be submitted not later than September 1, 1974.

(h) Enrollment and graduation determinations; "full-time students".

(1) For purposes of this part and part F of this subchapter, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part F of this subchapter, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry, or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree.

(i) Applications for new schools.

In the case of a new school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsections (a) and (b) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(j) Authorization of appropriations.

(1) There are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1972, $213,000,000 for the fiscal year ending June 30, 1973, and $238,000,000 for the fiscal year ending June 30,

1974, for grants under this section to schools of medicine, osteopathy, and dentistry.

(2) There are authorized to be appropriated $34,000,000 for the fiscal year ending June 30, 1972, $37,000,000 for the fiscal year ending June 30, 1973, and $41,000,000 for the fiscal year ending June 30, 1974, for grants under this section to schools of veterinary medicine, optometry, pharmacy, and podiatry.

(3) No funds appropriated under any provision of this chapter (other than this subsection) may be used to make grants under this section. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 437.)

AMENDMENTS

1971—Pub. L. 92–157, in revising the text, substituted provisions incorporated in subsecs. (a)–(j) respecting capitation grants for provisions respecting authorization of appropriations of $117,000,000 and $168,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, for institutional grants and special project grants under former provisions of sections 295f–1 and 295f–2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 295f–5 of this title.

§ 295f–1. Start-up assistance.

(a) New schools eligible; conditions; amount of grant; new school status; payments: advances or reimbursement, intervals, conditions; authorization of appropriations.

(1) In the case of any new school of medicine, osteopathy or dentistry which begins instruction after November 18, 1971, the Secretary may, after taking into account—

(A) the ability of such school to use a grant under this section to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

(B) the other resources available to such school, make a grant to such school for each year such school is a new school (as determined under paragraph (4)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first academic year of operation will exceed twenty-three.

(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of $7,500 and the number of full-time students enrolled in such school in such year;

(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year;

(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

(3) The Secretary shall give special consideration to each application of a school for grant assistance under this subsection which contains or is reasonably supported by assurances, that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), it will be able to accelerate the date on which it will begin its teaching program.

(4) For purposes of this subsection, any school of medicine, osteopathy, or dentistry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

(5) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(6) There is authorized to be appropriated to make grants under this subsection not to exceed $10,000,000 for the fiscal year ending June 30, 1972, and a like amount for each of the next two fiscal years. Sums appropriated under this paragraph shall remain available until expended.

(b) Two-year schools of medicine with prospective accredited status; amount of grant; year of expenditure; limitation of funds; applications: filing date, approval by Secretary; enrollment date for third-year students; payments: advances or reimbursement; intervals, conditions.

(1) The Secretary shall make a grant to any public or nonprofit private two-year school of medicine (or any school accredited as such a two-year school) which intends to become a school accredited to grant the degree of doctor of medicine. The amount of the grant to a school under this subsection shall be equal to the product of $50,000 and the number of third-year students which the Secretary determines will be initially enrolled in such school. Upon application by the school, the Secretary shall (if the school so requests) make a grant to such school for expenditure in the year preceding the initial enrollment of third-year students in such school, or thereafter. No school may receive more than one grant under this subsection.

(2) No grant may be made under this subsection unless an application therefor has been submitted before July 1, 1974, and the school enrolls third-year students not later than the school year beginning in the fiscal year ending June 30, 1975. The Secretary may not approve an application for a grant under this subsection unless he determines it contains or is supported by reasonable assurances that the school for which the application is made will be affiliated with an accredited hospital in the fiscal year for which such grant is made. Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 443.)

AMENDMENTS

1971—Pub. L. 92–157, in revising the text, substituted provisions incorporated in subsecs. (a) and (b) respecting start-up assistance to new schools and two-year schools of medicine with prospective accredited status for former provisions respecting institutional grants, providing in subsec. (a) for distribution, computations, increases, and adjustments; subsec. (b) for enrollment increase requirement, waiver thereof, limitation, and exceptions; subsec. (c) for determination of number of students enrolled and definition of "full-time students"; and subsec. (d) for full time students in new schools.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295f, 295f–5 of this title.

§ 295f–2. Special project grants and contracts.

(a) Description of programs.

The Secretary may make grants to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry in meeting the costs of special projects to—

(1) effect significant improvements in the curriculums of any such schools (including projects to shorten the length of time required for training in such schools), with particular emphasis, in the case of schools of medicine or osteopathy, upon the establishment of new, or expansion of existing, programs for training in family medicine;

(2) develop programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, including projects for training in the use of the team approach to the delivery of health services;

(3) develop and operate training programs, and train, for new roles, types, or levels of health personnel, including programs for the training of physicians' assistants and other health professions' assistants;

(4) plan, develop, or establish new programs, or innovative modifications of existing programs, of education in such health professions, including the teaching of the organization, delivery, financing, or evaluation of health care;

(5) research, development, or demonstrate advances in the various fields related to education in such health professions;

(6) assist in increasing the supply, or improving the distribution, by geographic area or specialty group, of adequately trained personnel in such health professions needed to meet the health needs of the Nation;

(7) establish and operate programs at schools of medicine or osteopathy (and where applicable at other health professions schools) (A) providing increased emphasis on, and training in, the science of clinical pharmacology, the prevention, diagnosis, treatment, and rehabilitation of alcoholism and drug dependence, and the assessment of the efficacy of various therapeutic regimens, or (B) providing increased emphasis on, and training and research in, the science of human nutrition and the application of such science to health; or (C) providing increased emphasis on the ethical, social, legal, and moral implications of advances in biomedical research and technology with respect to the effects of such advances on individuals and society;

(8) establish and operate projects designed to identify, and increase admissions to and enrollment in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry of, individuals whose background and interests make it reasonable to assume that they will engage in the practice of their health profession in rural or other areas having a severe shortage of personnel in such health profession;

(9) establish and operate projects designed to increase admissions to and enrollment in such schools of qualified individuals from minority or low-income groups;

(10) plan experimental teaching programs or facilities;

(11) provide traineeships (including costs of training and fees, stipends, and allowances for the students (including travel and subsistence expenses and dependency allowances)) for full-time students to secure part of their education under a preceptor in family practice, pediatrics, internal medicine, or other health fields designated by the Secretary, or in rural or other areas having a severe shortage of physicians;

(12) utilize health personnel more efficiently, through the use of computer technology and otherwise;

(13) encourage new or more effective approaches to the organization and delivery of health services through the use of the team approach to delivery of health services and the utilization of computer technology to process biomedical information in the provision of health services; or

(14) establish and operate programs in the interdisciplinary training of health personnel for the provision of emergency medical services, with particular emphasis on the establishment and operation of training programs affording clinical experience in emergency medical services systems receiving assistance under subchapter X of this chapter.

The Secretary may also enter into contracts with public or private health or educational entities to carry out any project described in this subsection.

(b) Additional related uses.

Grants and contracts may also be made by the Secretary under this section for—

(1) the discovery, collection, development, or confirmation of information for,

(2) the planning, development, demonstration, establishment, or maintenance of,

(3) the alteration or renovation of existing facilities for, any project described in subsection (a) of this section.

(c) Contract authority.

Contracts under this section may be entered into without regard to section 529 of Title 31 and section 5 of Title 41.

(d) Authorization of appropriations.

There are authorized to be appropriated $118,000,000 for the fiscal year ending June 30, 1972, $138,000,000 for the fiscal year ending June 30,

1973, and $156,000,000 for the fiscal year ending June 30, 1974, for the purpose of making payments pursuant to grants and contracts under this section. Funds appropriated under this subsection for the fiscal year ending June 30, 1972, shall remain available for obligation through September 30, 1972. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 444; Nov. 16, 1973, Pub. L. 93–154, § 3(b), 87 Stat. 604; July 12, 1974, Pub. L. 93–348, title II, § 215, 88 Stat. 354.)

AMENDMENTS

1974—Subsec. (a)(7)(C). Pub. L. 93–348 added cl. (C).

1973—Subsec. (a)(14). Pub. L. 93–154 added par. (14).

1971—Pub. L. 92–157, in revising the text substituted special project grants and contracts provisions respecting (a) description of programs, (b) additional related uses, (c) contract authority, and (d) authorization of appropriations for former provisions respecting special project grants, determination of need for emergency financial assistance, and report to Congress by June 30, 1971, former subsec. (a) providing for special projects to plan, develop, or establish new programs or modifications of existing programs of education in health professions or to effect significant improvements in curriculums or for research in various fields related to education in health professions, or to develop training for new levels or types of health professions personnel, or to assist schools in serious financial straits to meet costs of operation or have special need for financial assistance to meet accreditation requirements, or to assist the schools to meet costs of planning experimental teaching facilities or experimental design thereof, or otherwise strengthen, improve, or expand personnel training programs, or help increase supply of trained personnel to meet health needs of the Nation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295f–3, 295f–5 of this title.

§ 295f–3. Grants to assist health professions schools which are in financial distress.

(a) Authorization of appropriations.

There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 for the fiscal year ending June 30, 1974, to make grants under this section, and, to the extent that sums appropriated under this subsection are not used for such grants, for grants under section 295f–2 of this title. Funds appropriated under this subsection for the fiscal year ending June 30, 1974, shall remain available for obligation through September 30, 1974.

(b) Authority of Secretary.

The Secretary may make grants to assist any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry which is in serious financial straits to meet its costs of operation or which has special need for financial assistance to meet accreditation requirements.

(c) Terms and conditions.

Any grant under this section may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

(d) Requisite assurances.

An application for a grant under this section must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought. The Secretary may, after consultation with the National Advisory Council on Health Professions Education, waive the requirement of the preceding sentence with respect to any school if he determines application of such requirement to such school would be inconsistent with the purposes of this section. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 446; July 12, 1974, Pub. L. 93–348, title I, § 106, 88 Stat. 347.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–348 increased appropriations authorization for fiscal year ending June 30, 1974, from $10,000,000 to $15,000,000 and substituted provision making funds appropriated for fiscal year ending June 30, 1974, available for obligation through Sept. 30, 1974, for prior provision making funds appropriated for fiscal year ending June 30, 1972, available for obligation through Sept. 30, 1972.

1971—Pub. L. 92–157, in revising the text, substituted provisions for grants to assist health professions schools which are in financial distress (formerly covered in former provisions of section 295f–2(a) of this title) for former provisions respecting applications for grants, former provisions providing in: subsec. (a) for filing dates; subsec. (b) for eligibility for grants; subsec. (c) for consultation with Council; subsec. (d) for approval by Surgeon General and contents of application; and subsec. (e) for priority of projects and matters considered.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295f–5, 295g of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31–922 of the District of Columbia Code.

§ 295f–4. Health manpower education initiative awards.

(a) Description of projects; additional related uses; contract authority.

(1) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel and the health services delivery system, the Secretary may make grants to public or nonprofit private health or educational entities, and may enter into contracts with public or private health or educational entities, for projects—

(A) to encourage the establishment or maintenance of programs to alleviate shortages of health personnel in areas designated by the Secretary through training or retraining such personnel in facilities located in such areas or to

otherwise improve the distribution of health personnel by area or by specialty group;

(B) to provide training programs leading to more efficient utilization of health personnel;

(C) to initiate new types and patterns or improve existing patterns of training, retraining, continuing education, and advanced training of health personnel, including teachers, administrators, specialists, and paraprofessionals (particularly physicians' assistants, dental therapists, and pediatric nurse practitioners);

(D) to encourage new or more effective approaches to the organization and delivery of health services (including emergency medical services) through training individuals in the use of the team approach to delivery of health services (including emergency medical services) and otherwise; or

(E) to assist State, local, or other regional arrangements among schools and related organizations and institutions to carry out the purpose of this subsection.

(2) Grants and contracts may also be made by the Secretary under this section for (A) the discovery, collection, development or confirmation of information for, (B) the planning development, demonstration, establishment, or maintenance of, or (C) the alteration or renovation of existing facilities for, any of the projects described in paragraph (1) of this subsection.

(3) Contracts may be entered into under this subsection without regard to section 529 of Title 31 and section 5 of Title 41.

(b) Description of special projects; limitations of funds.

The Secretary may also make grants to public or nonprofit private health or educational entities to assist in meeting the costs of special projects to—

(1) establish or operate projects designed to identify, and increase admissions to and enrollment in schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, veterinary medicine, public health, or other health training of, individuals whose background and interests make it reasonable to assume that they will engage in the practice of their health profession in rural or other areas having a severe shortage of personnel in such health profession; or

(2) (A) identify individuals with a potential for education or training in the health professions (including veterans of the Armed Forces of the United States with training or experience in the health field) who due to socioeconomic factors are financially or otherwise disadvantaged and encouraging and assisting them (i) to enroll in a school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, public health, or other health training; or (ii) if they are not qualified to enroll in such a school, to undertake such postsecondary education or training as may be required to qualify them to enroll in such a school;

(B) publicize existing sources of financial aid available to persons enrolled in any such school or who are undertaking training necessary to qualify them to enroll in any such school; or

(C) establish such programs as the Secretary determines will enhance and facilitate the enrollment, pursuit, and completion of study by individuals referred to in clause (A) in schools referred to in clause (A) (i).

Of the sums appropriated under subsection (e) of this section for any fiscal year, not more than 15 per centum of such sums, but in no event less than $5,000,000 shall be used to make grants under this subsection in such fiscal year. Of the sums available for grants under this subsection for any fiscal year, not more than one-half of such sums may be used for such fiscal year for projects described in clause (1) and not more than one-half of such sums may be used for such fiscal year for projects described in clause (2).

(c) Applications: approval by Secretary, regulations; amount of grant; payments: advances or reimbursement, intervals, conditions.

(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(d) Coordination with regional medical program.

Each grant or contract under subsection (a) of this section must be coordinated with the regional medical program for the area in which the grant or contract will be carried out.

(e) Authorization of appropriations.

For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $45,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, and $135,000,000 for the fiscal year ending June 30, 1974. Funds appropriated under this subsection for the fiscal year ending June 30, 1972, shall remain available for obligation through September 30, 1972. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 446; Nov. 16, 1973, Pub. L. 93–154, § 3(c), 87 Stat. 605.)

AMENDMENTS

1973—Subsec. (a) (1) (D). Pub. L. 93–154 inserted "(including emergency medical services)" after "services" wherever appearing.

1971—Pub. L. 92–157, in revising the text, substituted provisions for health manpower education initiative awards for former provisions respecting the National Advisory Council on Health Professions Educational Assistance, providing in former: subsec. (a) for its establishment, composition, and selection of members; subsec. (b) for its functions; and subsec. (c) for authorization to use services of members for periods in addition to conference periods.

§ 295f–5. Applications for capitation, start-up, special project, and financial distress grants.

(a) Filing dates.

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for

grants under section 295f, 295f–1, 295f–2, or 295f–3 of this title for any fiscal year must be filed.

(b) Eligibility conditions.

To be eligible for a grant under section 295f, 295f–1, 295f–2, or 295f–3 of this title, the applicant must (1) be a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause shall be deemed to be satisfied if (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that, with the aid of a grant (or grants) under those sections, having regard for the purposes of the grant for which application is made, such school will meet such accreditation standards within a reasonable time.

(c) Consultation with Council.

The Secretary shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Health Professions Education (established by section 293e of this title).

(d) Approval by Secretary; contents.

A grant under section 295f, 295f–1, 295f–2, or 295f–3 of this title may be made only if the application therefor—

(1) is approved by the Secretary upon his determination that the applicant (and its application) meet the applicable eligibility conditions prescribed by section 295f, 295f–1, or 295f–3 of this title or subsection (b) of this section;

(2) contains such additional information as the Secretary may require to make the determinations required of him under the section authorizing the grant for which the application is made and such assurances as he may find necessary to carry out the purposes of such section; and

(3) provides for such fiscal-control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under such grant.

(July 1, 1944, ch. 373, title VII, § 775, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 104, 85 Stat. 448.)

§ 295f–6. Training in emergency medical services.

(a) Authority of Secretary; grants to and contracts with appropriate educational entities.

The Secretary may make grants to and enter into contracts with schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), especially training programs affording clinical experience in emergency medical services systems receiving assistance under subchapter X of this chapter.

(b) Applicants and applications; eligible entities; requirements.

No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Amount of grant or contract; determination by Secretary; payments: advances or reimbursement, intervals, conditions; reports of grantees and contractees.

The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

(d) Prohibitions and restrictions inapplicable.

Contracts may be entered into under this section without regard to section 529 of Title 31 and section 5 of Title 41.

(e) Authorization of appropriations.

For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974. (July 1, 1944, ch. 373, title VII, § 776, as added Nov. 16, 1973, Pub. L. 93–154, § 3(a), 87 Stat. 604.)

PART F.—SCHOLARSHIP GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293d, 293e, 295f of this title.

Subpart I.—Grants for Scholarships to Students Studying in United States

AMENDMENTS

1971—Pub. L. 92–157, title I, § 106(b)(1), (2), Nov. 18, 1971, 85 Stat. 453, added the heading of subpart I and struck out from the heading of Part F following "Scholarship Grants" the words "to Schools of Medicine, Osteopathy, Dentistry, Optometry, Podiatry, Pharmacy, or Veterinary Medicine".

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 294f of this title.

§ 295g. Scholarship grants for study in the United States.

(a) Authorization.

The Secretary shall make grants as provided in this subpart to each public or other nonprofit school

of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, or veterinary medicine, which is accredited as provided in section 293a(b)(1)(B) or section 295f–3(b)(2) of this title for scholarships to be awarded annually by such school to students thereof.

(b) Amount of grant.

The amount of the grant under subsection (a) of this section to each such school for the fiscal year ending June 30, 1972, shall be equal to $3,000 multiplied by one-tenth of the number of full-time students of such school. The amount of such grant for the fiscal year ending June 30, 1973, and the next fiscal year shall be equal to the greater of (1) $3,000 multiplied by the number of full-time students of such school who are from low-income backgrounds as determined under regulations of the Secretary, or (2) $3,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending June 30, 1975, and for each of the two succeeding fiscal years, the grant under subsection (a) of this section shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially receive such awards out of grants made to the school for fiscal years ending before July 1, 1974.

(c) Eligibility of scholarship recipients; maximum amount of scholarships.

(1) Scholarships may be awarded by schools from grants under subsection (a) of this section—

(A) only to individuals who have been accepted by them for enrollment as full-time first-year students and to individuals enrolled and in good standing as full-time students, in the case of awards from such grants for the fiscal year ending June 30, 1972, and each of the next two fiscal years; and

(B) only to individuals enrolled and in good standing as full-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1974, in the case of awards from such grants for the fiscal year ending June 30, 1975, or the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) of this section for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $3,500 for any year, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Regulations; consultation with Council.

Grants under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council on Health Professions Education (established by section 293e of this title).

(e) Manner of making grant payments.

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made. (As amended July 9, 1971, Pub. L. 92–52, § 2, 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, §§ 106(a), (b)(3), (4), 108(b)(2), title III, § 301(g), 85 Stat. 452, 453, 461, 464.)

AMENDMENTS

1971—Pub. L. 92–157, § 106(b)(3), provided for scholarship grants "for study in the United States" in section catchline.

Subsec. (a). Pub. L. 92–157, §§ 106(b)(4), 301(g), substituted "this subpart" and "Secretary" for "this part" and "Surgeon General", respectively.

Subsec. (b). Pub. L. 92–157, § 106(a)(1), in revising text for amount of grants, provided for: fiscal years ending June 30, 1975, 1976, and 1977, an amount necessary to enable the school to continue payments to students who initially received the awards out of grants made to the school for fiscal years ending before July 1, 1974 (former text provided same amount for fiscal year ending June 30, 1975, but out of grants made to the school for fiscal year ending prior to July 1, 1972); fiscal years ending June 30, 1973, and 1974, an amount equal to the greater of $3,000 multiplied by number of full-time students from low-income backgrounds or $3,000 multiplied by one-tenth of number of full-time students (former text provided for amount necessary to enable the school to continue payments to students who initially received the awards out of grants made to the school for fiscal years ending prior to July 1, 1972); fiscal year ending June 30, 1972, an amount equal to $3,000 (increased from $2,000) multiplied by number of full-time students; and fiscal years ending June 30, 1966, to 1971, an amount equal to $2,000 multiplied by one-tenth of number of full-time: first-year students for 1966; first-year and second-year students for 1967; first-year, second-year, and third-year students for 1968; and full-time students for 1969, 1970, and 1971.

Pub. L. 92–52, § 2(a), substituted "the next three fiscal years" for "the next two fiscal years", "1973" for "1972" and "1972" for "1971".

Subsec. (c)(1). Pub. L. 92–157, § 106(a)(2), substituted provisions of pars. (A) and (B) respecting eligibility for scholarships of individuals accepted as full-time first-year students and enrollees in good standing as full-time students for fiscal years ending June 30, 1972, and next two fiscal years, and enrollees in good standing as full-time students who initially received awards out of grants for a fiscal year ending prior to July 1, 1974, for fiscal year ending June 30, 1975, or two succeeding fiscal years, respectively, for provisions of former pars. (A)–(E), respecting eligibility for awards of individuals accepted as full-time first year students, for fiscal year ending June 30, 1966; full-time first year students and enrollees in good standing as full-time second year students, for fiscal year ending June 30, 1967; full-time first year students and enrollees in good standing as full-time second-year and third-year students, for fiscal year ending June 30, 1968; full-time first year students and enrollees in good standing as full-time students, for fiscal year ending June 30, 1969, and next three fiscal years; and enrollees in good standing as full-time students who initially received awards out of such grants for a fiscal year prior to July 1, 1972, for fiscal years ending June 30, 1973, or two succeeding fiscal years.

Subsec. (c)(1)(D). Pub. L. 92–52, § 2(b)(1), substituted "the next three fiscal years" for "the next two fiscal years".

Subsec. (c)(1)(E). Pub. L. 92–52, § 2(b)(2), substituted "1972" for "1971" and "1973" for "1972".

Subsec. (c)(2). Pub. L. 92–157, § 106(a)(3), increased maximum amount of scholarships from $2,500 to $3,500.

Subsec. (d). Pub. L. 92–157, §§ 108(b)(2), 301(g), substituted "National Advisory Council on Health Professions Education (established by section 293e of this title)" for "National Advisory Council on Health Professions Educational Assistance" and "Secretary" for "Surgeon General", respectively.

Subsec. (e). Pub. L. 92–157, § 301(g), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1971 AMENDMENT

Section 106(a) of Pub. L. 92–157 provided that amendment of subsecs. (b) and (c) of this section by Pub. L. 92–157 shall be effective with respect to scholarship grants made under subsec. (a) of this section for fiscal years beginning after June 30, 1971.

§ 295g–1. Transfer to student loan fund.

Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for scholarships under this subpart, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under subpart I of part C for (and to be regarded as) Federal capital contributions, to be used for the same purpose as such sums. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, §§ 105(f)(3), 106(b)(4), 85 Stat. 451, 453.)

AMENDMENTS

1971—Pub. L. 92–157 substituted "subpart I of part C" and "this subpart" for "part C" and "this part", respectively.

Subpart II.—Scholarships by Secretary to Citizens of United States Who Are Full-time Students in Schools of Medicine Located Outside United States [New]

AMENDMENTS

1971—Pub. L. 92–157, title I, § 106(b)(6), Nov. 18, 1971, 85 Stat. 453, added the heading of subpart II.

§ 295g–11. Scholarship grants for study abroad.

(a) Authority of Secretary.

From the appropriations under subsection (e) of this section, the Secretary is authorized to make, in accordance with this subpart, scholarship grants to citizens of the United States who are full-time students in schools of medicine which are located outside the United States.

(b) Financial need; domestic medical practice agreement; maximum amount of scholarships.

Scholarship grants under this subpart shall be awarded for any school year only to students of exceptional financial need who need such financial assistance to pursue a course of study at a school of medicine for such year and who have entered into an agreement with the Secretary to practice medicine in the United States for a period of five years. Such practice shall begin within such reasonable period of time, after completion of such student's professional training, as the Secretary shall by regulation prescribe. Any such scholarship for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school of medicine in which he is enrolled, but not to exceed $3,500 for any year, as the Secretary may determine the student needs for such year on the basis of the requirements and financial resources of the student.

(c) Regulations; consultation with Council.

Grants under this subpart shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council on Health Professions Education.

(d) Eligibility of scholarship recipients.

(1) No scholarship grant under this subpart shall be made to any student unless—

(A) prior to the date such student files application for such grant—

(i) he has made application for admission as a student in a school of medicine which is located in the United States;

(ii) he has, in connection with the making of such application for admission to such school, undergone a written examination to determine his qualifications for admission as a student in such school;

(B) such student furnishes to the Secretary a certification from such school that—

(i) such student is qualified for admission as a student in such school, and

(ii) such student was denied admission as a student in such school solely because, for the school year for which such student applied for admission to such school, the number of qualified applicants for admission to such school exceeded the maximum number of students (as determined by such school) which such school was prepared to accept for admission for such year; and

(C) such student has not been accepted, before the date of approval of his application for a scholarship grant under this subpart, by a medical school located in the United States.

(2) No scholarship grant under this subpart shall be made to any student who has completed three years as a student in a school of medicine, unless—

(A) such student has passed an examination which—

(i) is prepared by a body or bodies which the Secretary recognizes as being qualified to prepare such an examination, and

(ii) is used to determine the qualifications of students in schools of medicine which are located outside the United States for admission (as transfer students) in schools of medicine which are located in the United States; and

(B) such student has made application for admission (as a transfer student) to, but has not been accepted by, a school of medicine which is located in the United States.

(e) Authorization of appropriations.

For the purpose of making scholarship grants under this subpart there are authorized to be appropriated the following amounts:

(1) For the fiscal year ending June 30, 1972, and for each of the next two fiscal years, there are authorized to be appropriated $150,000.

(2) For the fiscal year ending June 30, 1975, and for each of the two succeeding fiscal years, there are authorized to be appropriated such amounts as may be necessary to enable the Secretary to continue to make scholarship grants to students who received such grants under this subpart from funds made available to the Secretary for such purpose for fiscal years ending before July 1, 1974.

(July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(b)(6), 85 Stat. 453.)

CODIFICATION

Another section 785 of act July 1, 1944, ch. 373, title VII, relating to administration and contractual ar-

rangements respecting physician shortage area scholarship program, was enacted by section 106(c) of Pub. L. 92–157 and is classified to section 295g–22 of this title.

Subpart III.—Physician Shortage Area Scholarship Program [New]

AMENDMENTS

1971—Pub. L. 92–157, title I, § 106(c), Nov. 18, 1971, 85 Stat. 455, added the heading of subpart III.

§ 295g–21. Scholarship grants.

(a) Eligible students; "physician shortage area" and "primary care" defined.

In order to promote the more adequate provision of medical care for persons who—

(1) reside in a physician shortage area;

(2) are migratory agricultural workers or members of the families of such workers;

the Secretary may, in accordance with the provisions of this subpart, make scholarship grants to individuals who are medical students and who agree to engage in the practice of primary care after completion of their professional training (A) in a physician shortage area, or (B) at such place or places, such facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons referred to in clause (2). For purposes of this subpart, (1) the term "physician shortage area" means an area determined by the Secretary under section 294a(f)(1)(C) of this title to have a shortage of and a need for physicians, and (2) the term "primary care" has the meaning prescribed for it by the Secretary under section 295e–2(c)(3)(B) of this title.

(b) Academic year period; maximum grant to an individual; order of priority for awards.

(1) Scholarship grants under this subpart shall be made with respect to academic years.

(2) The amount of any scholarship grant under this subpart to any individual for any full academic year shall not exceed $5,000.

(3) The Secretary shall, in awarding scholarship grants under this subpart, accord priority to applicants as follows—

(A) first, to any applicant who (i) is from a low-income background (as determined under regulations of the Secretary), (ii) resides in a physician shortage area, and (iii) agrees that, upon completion of his professional training, he will return to such area and will engage in such area in the practice of primary care;

(B) second, to any applicant who meets all the criteria set forth in subparagraph (A) except that prescribed in clause (i);

(C) third, to any applicant who meets the criterion set forth in clause (i); and

(D) fourth, to any other applicant.

(c) Conditions; recovery upon breach of conditions; accrued interest; cancellation of liability for repayment; waiver or suspension of obligation.

(1) Any scholarship grant awarded to any individual under this subpart shall be awarded upon the condition that such individual will, upon completion of his professional training, engage in the practice of primary care—

(A) in the case of any individual who, in applying for a scholarship grant under this subpart, met the criteria set forth in subparagraph (A) or (B) of subsection (b)(3) of this section, in the physician shortage area in which he agreed (pursuant to such subparagraph) to engage in such practice; and

(B) in the case of any individual who did not agree (pursuant to such subparagraph (A) or (B)) to engage in such practice in any particular physician shortage area (or who is not, under a waiver under paragraph (4) of this subsection, required to engage in such practice in any particular physician shortage area)—

(i) in any physician shortage area, or

(ii) at such place or places, in such facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care provided by such individual, a substantial portion will consist of persons who are migratory agricultural workers or are members of the families of such workers;

for a twelve-month period for each full academic year with respect to which he receives such a scholarship grant. For purposes of the preceding sentence, any individual, who has received a scholarship grant under this subpart for four full academic years, shall be deemed to have received such a grant for only three full academic years if such individual serves all of his internship or residency in a public or private hospital, which is located in a physician shortage area, or a substantial portion of the patients of which consists of persons who are migratory agricultural workers (or are members of the families of such workers) and, if, while so serving, such individual receives training or professional experience designed to prepare him to engage in the practice of primary care.

(2) The condition imposed by paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's professional training, as the Secretary shall by regulations prescribe.

(3) If any individual to whom the condition referred to in paragraph (1) is applicable fails, within the period prescribed pursuant to regulations under paragraph (2), to comply with such condition for the full number of months with respect to which such condition is applicable, the United States shall be entitled to recover from such individual an amount equal to the amount produced by multiplying—

(A) the aggregate of (i) the amounts of the scholarship grant or grants (as the case may be) made to such individual under this subpart, and (ii) the sums of the interest which would be payable on each such scholarship grant if, at the time such grant was made, such grant were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such grant was made, and if the interest one each such grant had been compounded annually, by

(B) a fraction the numerator of which is the number obtained by subtracting from the number of months to which such condition is applicable a number equal to one-half of the number of months with respect to which compliance by such individual with such condition was made, and the denominator of which is a number equal to the number of months with respect to which such condition is applicable.

Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury pursuant to clause (A) with respect to the grant on account of which such amount is due the United States.

(4) (A) Any obligation of any individual to comply with the condition applicable to him under the preceding provisions of this subsection shall be canceled upon the death of such individual.

(B) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience. (July 1, 1944, ch. 373, title VII, § 784, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(c), 85 Stat. 455.)

§ 295g–22. Administration; contractual arrangements.

The Secretary may enter into agreements with schools of medicine, hospitals, or other appropriate public or nonprofit private agencies under which such schools, hospitals, or other agencies will, as agents of the Secretary, perform such functions in the administration of this subpart, as the Secretary may specify. Any such agreement with any school, hospital, or other agency may provide for payment by the Secretary of amounts equal to the expenses actually and necessarily incurred by such school, hospital, or other agency in carrying out such agreement. (July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(c), 85 Stat. 457.)

CODIFICATION

Another section 785 of act July 1, 1944, ch. 373, title VII, relating to scholarship grants for study abroad under program for scholarships by Secretary to citizens of United States who are full-time students in schools of medicine located outside the United States, was enacted by section 106(b)(6) of Pub. L. 92–157 and is classified to section 295g–11 of this title.

§ 295g–23. Authorization of appropriations.

For the purpose of making scholarship grants under this subpart, there are authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1972, $3,000,000 for the fiscal year ending June 30, 1973, and $3,500,000 for the fiscal year ending June 30, 1974. For the fiscal year ending June 30, 1975, and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to July 1, 1974) have received such a grant and who are eligible for such a grant under this part during such succeeding fiscal year. (July 1, 1944, ch. 373, title VII, § 786, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(c), 85 Stat. 457.)

PART G.—TRAINING IN THE ALLIED HEALTH PROFESSIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293e of this title.

§ 295h. Grants for construction of teaching facilities of allied health professions personnel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295h–1, 295h–4 of this title.

§ 295h–1. Grants to improve the quality of training centers for allied health professions.

* * * * *

(b) Special improvement grants.

There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $20,000,000 for the fiscal year ending June 30, 1974, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized functions which the center serves.

(c) Special projects for experimentation, demonstration, and institutional improvement.

(1) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $18,245,000 for the fiscal year ending June 30, 1974, for grants and contracts for special projects under this subsection.

* * * * *

(As amended June 18, 1973, Pub. L. 93–45, title I, § 109(a), (b), 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–45, § 109(a), authorized appropriations of $20,000,000 for fiscal year ending June 30, 1974.

Subsec. (c)(1). Pub. L. 93–45, § 109(b), authorized appropriations of $18,245,000 for fiscal year ending June 30, 1974.

§ 295h–2. Traineeships for advanced training of allied health professions personnel.

(a) There are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967; $2,500,000 for the fiscal year ending June 30, 1968; $3,500,000 for the fiscal year ending June 30, 1969; $5,000,000 for the fiscal year ending June 30, 1970; $8,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; $12,000,000 for the fiscal year ending June 30, 1973, and $6,000,000 for the fiscal year ending June 30, 1974, to cover the cost of traineeships for the training of allied health professions personnel to teach health services technicians or in any of the allied

health professions, to serve in any of such professions in adminitrative or supervisory capacities, or to serve in allied health professions specialties determined by the Surgeon General to require advanced training.

* * * * *

(As amended June 18, 1973, Pub. L. 93–45, title I, § 109(c), 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $6,000,000 for fiscal year ending June 30, 1974.

§ 295h–3a. Grants and contracts to encourage full utilization of educational talent for allied health professions.

* * * * *

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 3, 1973; and $100,000 for the fiscal year ending June 30, 1974. (As amended June 18, 1973, Pub. L. 93–45, title I, § 109(d), 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–45 authorized appropriations of $100,000 for fiscal year ending June 30, 1974.

§ 295h–3d. Loans for students of the allied health professions.

(a) Agreements with public or private nonprofit agency, institution, or organizations; student loan fund.

* * * * *

(2) Each agreement entered into under this subsection shall—

* * * * *

(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who is attending such program of such agency, institution, or organization shall receive a loan from a loan fund established under section 424 of Title 20; and

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(e), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (a)(2)(D). Pub. L. 92–157 struck out following "section 424 of Title 20" the words "or pursuant to part B of the title IV of the Higher Education Act of 1965".

§ 295h–4. Definitions.

For purposes of this part—

(1) The term "training center for allied health professions" means a junior college, college, or university—

* * * * *

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Surgeon General that reasonable progress is being made toward accreditation by such junior college,

except that an applicant for a grant for a construction project under section 295h of this title which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Surgeon General finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit, or, if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(f), 85 Stat. 464.)

AMENDMENTS

1971—Par. (1)(E). Pub. L. 92–157 struck out cl. (E) inclusion in definition of "training center for allied health professions" a junior college, college, or university, in the case of an applicant for grant under section 295h–2 of this title, which, if the college or university did not include a school of medicine, school of osteopathy, school of optometry, or school of dentistry, as defined in section 293d(4) of this title, as might be appropriate in light of training for which the grant was to be made, was affiliated (to extent and in manner determined in accordance with regulations) with such a school.

PART H.—GENERAL PROVISIONS

AMENDMENTS

1971—Pub. L. 92–157, title I, § 110(1), Nov. 18, 1971, 85 Stat. 461, added the heading of Part H.

§ 295h–8. Advance funding.

Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this subchapter, section 244–1, or section 245a of this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 109, 85 Stat. 461.)

REFERENCES IN TEXT

Sections 244–1 and 245a of this title, referred to in text, were in the original, references to sections 306 and 309 of act July 1, 1944, ch. 373. Such sections 306 and 309 were renumbered as sections 312 and 313 by Pub. L. 93–353, July 23, 1974, title I, § 102(b), (c), 88 Stat. 362, and are classified to sections 244–1 and 245 of this title.

AMENDMENTS

1971—Pub. L. 92–157 substituted "this subchapter, section 242d, or section 242g of this title" for "this part".

STUDY OF FEDERAL HEALTH FACILITIES CONSTRUCTION COSTS; REPORT TO CONGRESS

Pub. L. 92–157, title II, § 204, Nov. 18, 1971, 85 Stat. 462, provided that: "The Comptroller General shall con-

duct a study of health facilities construction costs. Such study shall include consideration of the feasibility of reducing the cost of constructing health facilities constructed with assistance provided under the Public Health Service Act [this chapter], particularly with respect to innovative techniques, new materials, and the possible waiver of unnecessary costly Federal standards. The study shall be completed, and a report shall be submitted to the Congress, within one year after the date of enactment of this Act [Nov. 18, 1971]."

STUDY OF COSTS OF EDUCATING STUDENTS OF VARIOUS HEALTH PROFESSIONS; REPORTS; NATIONAL UNIFORM STANDARDS; ARRANGEMENT WITH NATIONAL ACADEMY OF SCIENCES OR OTHER NONPROFIT PRIVATE GROUPS OR ASSOCIATIONS

Pub. L. 92–157, title II, § 205, Nov. 18, 1971, 85 Stat. 462, provided that:

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and nursing in providing education programs which lead, respectively to a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry (or an equivalent degree), a degree of doctor of optometry (or an equivalent degree), a degree of bachelor of science in pharmacy (or an equivalent degree), a degree of doctor of podiatry (or an equivalent degree), a degree of doctor of veterinary medicine (or an equivalent degree), a certificate of degree or other appropriate evidence of completion of a course of training for physicians assistants or dental therapists, or a certificate or degree certifying completion of nurse training.

"(2) Such studies shall be completed and an interim report thereon submitted not later than March 30, 1973, and a final report not later than January 1, 1974, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such studies shall develop methodologies for ascertaining the national average annual per student educational costs and shall, on such basis, determine such costs for school years 1971–1972, 1972–1973, and the estimated costs for school year 1973–1974 in the respective disciplines. The study shall also indicate the extent of variation among schools within the respective disciplines in their annual per student educational costs and the key factors affecting this variation. The studies shall employ the most recent data available from the health professional schools in the country at the time of the study.

"(4) Such studies shall also describe national uniform standards for determining annual per student educational costs for each health professional school in future years and estimates of the cost to such schools of reporting according to these uniform standards.

"(5) The report shall also include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants under the Public Health Service Act [see section 295f of this title] to each health professional school.

"(b)(1) The Secretary shall request the National Academy of Sciences to conduct such studies under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

"(2) If the National Academy of Sciences is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in susbection (a)(2)."

REPORTS TO CONGRESS ON ADMINISTRATION OF SUBCHAPTER V (OTHER THAN PARTS A AND G)

Pub. L. 92–157, title II, § 206, Nov. 18, 1971, 85 Stat. 463, provided that: "The Secretary shall prepare and submit to the Congress, prior to June 30, 1974, a final report on the administration of title VII [this subchapter] (other than parts A and G thereof) of the Public Health Service Act which shall include an estimate of increases in the number of persons entering the health professions effected under such title [this subchapter] prior to the enactment of this Act [Nov. 18, 1971]; an estimate of such increases effected in consequence of the enactment of this Act [Pub. L. 92–157]; on estimate of the numbers of practitioners of such professions in relation to the need of the public therefor; and an appraisal of title VII [this subchapter] (other than parts A and G thereof), as amended by this Act, to meet long-term national needs for health professionals. The Secretary shall submit to the Congress a first interim report prior to June 30, 1973, and a second interim report prior to January 31, 1974, describing his preliminary findings in the preparation of his final report."

§ 295h–9. Discrimination on basis of sex prohibited.

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any such school or training center unless the school or training center furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979. (As amended Nov. 18, 1971, Pub. L. 92–157, title I, § 110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93–348, title I, § 105, 88 Stat. 347.)

REFERENCES IN TEXT

"Date of the enactment of this sentence", referred to in text, means July 12, 1974, the date on which Pub. L. 93–348 was enacted into law.

AMENDMENTS

1974—Pub. L. 93–348 added provision respecting application of sex discrimination prohibition to a medical school benefiting from a grant, contract, loan guarantee, or interest subsidy for a fiscal year beginning after June 30, 1979, and in the process of changing its status as an institution admitting only female students to that of an institution admitting students without regard to their sex.

1971—Pub. L. 92–157 substituted provisions prohibiting discrimination on basis of sex for provisions respecting submission, prior to July 1, 1971, of a licensure report identifying major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel, including recommendations for steps to be taken toward the solution of the problems.

SUBCHAPTER VI.—NURSE TRAINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 300d–5, 300*l*–2 of this title; title 38 section 5070.

PART A—ASSISTANCE FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

Subpart I—Construction Assistance

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 298, 298b of this title.

§ 296. Authorization of appropriations for construction grants.

There are authorized to be appropriated for grants to assist in the construction of new facilities for collegiate, associate degree, or diploma schools of nursing, and for grants to assist in the replacement or rehabilitation of existing facilities for such schools, $35,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $45,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, $20,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $20,000,000 for fiscal year 1978. (As amended Nov. 18, 1971, Pub. L. 92–158, § 2(a), 85 Stat. 465; July 29, 1975, Pub. L. 94–63, title IX, §§ 902(a), 910(a)(1), 89 Stat. 354, 355.)

AMENDMENTS

1975—Pub. L. 94–63 authorized appropriations of $45,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for fiscal years 1976, 1977, 1978.

1971—Pub. L. 92–158 designated subsec. (a) as entire section, and as so designated substituted "and for grants to assist in the" for "or" preceding "replacement", substituted authorization of appropriations of $35,000,000, $40,000,000, and $45,000,000, for the fiscal years ending June 30, 1972, 1973, and 1974, respectively, for authorization of appropriations of $25,000,000, and $35,000,000, for the fiscal years ending June 30, 1970, and 1971, respectively, and deleted subsec. (b) which provided that sums appropriated pursuant to former subsec. (a) of this section for a fiscal year were to remain available for obligation through the close of the next fiscal year.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 905 of Pub. L. 94–63 provided that: "Except as may otherwise be specifically provided, the amendments made by this part [enacting sections 296j to 296m of this title, amending this section and sections 296a, 296d, 296e, 297 to 297c, 297e, and 297j of this title, repealing sections 296d, 296g, 296i, 297f, and 298c–7 of this title, and enacting provisions set out as notes under this section and sections 296a, 296d, 296e, 296m, 297, 297b, and 297f of this title] shall take effect July 1, 1975. The amendments made by this part to provisions of title VIII of the Public Health Service Act [this subchapter] (hereinafter in this part referred to as the 'Act') are made to such provisions as amended by part A of this title [amending this section and sections 296e and 297j of this title and former sections 296d, 296g, 296i, and 298c–7 of this title]."

SHORT TITLE OF 1975 AMENDMENT

Section 901(a) of Pub. L. 94–63 provided that: "This title [enacting sections 296j to 296m and 298b–3 of this title, amending this section and sections 296a to 296i, 297 to 297e, 297g to 297h, 298 to 298b–2, 298c, 298c–1 and 298c–7 of this title, repealing sections 296g, 296i, 297f, 298c–7, and 298c–8 of this title, and enacting provisions set out as notes under this section and sections 296a, 296d, 296e, 296m, 297 and 297b of this title and former section 297f of this title] may be cited as the 'Nurse Training Act of 1975'."

SHORT TITLE

Section 1(a) of Pub. L. 92–158 provided that: "This Act [enacting sections 296h, 296i, 297l, 298b–1 and 298b–2 of this title, amending this section and sections 296a, 296b, 296c, 296d, 296e, 296f, 296g, 297, 297a, 297b, 297c, 297e, 297f, 298, 298b, 298c and 298c–7 of this title and enacting provisions set out as notes under this section and sections 296a, 296d, 296e, 297b and 298c of this title] may be cited as the 'Nurse Training Act of 1971'."

INFORMATION RESPECTING SUPPLY AND DISTRIBUTION OF AND REQUIREMENTS FOR NURSES; DETERMINATION PROCEDURES; SURVEYS AND COLLECTION OF DATES; ANNUAL REPORT TO CONGRESS ON DETERMINATIONS, ETC.; REVIEW BY OFFICE OF MANAGEMENT AND BUDGET OF REPORT PRIOR TO SUBMISSION

Section 951 of Pub. L. 94–63 provided that:

"(a)(1) Using procedures developed in accordance with paragraph (3), the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall determine on a continuing basis—

"(A) the supply (both current and projected and within the United States and within each State) of registered nurses, licensed practical and vocational nurses, nurse's aides, registered nurses with advanced training or graduate degrees, and nurse practitioners;

"(B) the distribution within the United States and within each State, of such nurses so as to determine (i) those areas of the United States which are oversupplied or undersupplied, or which have an adequate supply of such nurses in relation to the population of the area, and (ii) the demand for the services which such nurses provide; and

"(C) the current and future requirements for such nurses, nationally and within each State.

"(2) The Secretary shall survey and gather data, on a continuing basis, on—

"(A) the number and distribution of nurses, by type of employment and location of practice;

"(B) the number of nurses who are practicing full time and those who are employed part time, within the United States and within each State;

"(C) the average rates of compensation for nurses, by type of practice and location of practice;

"(D) the activity status of the total number of registered nurses within the United States and within each State;

"(E) the number of nurses with advanced training or graduate degrees in nursing, by specialty, including nurse practitioners, nurse clinicians, nurse researchers, nurse educators, and nurse supervisors and administrators; and

"(F) the number of registered nurses entering the United States annually from other nations, by country of nurse training and by immigrant status.

"(3) Within six months of the date of the enactment of this Act [July 29, 1975], the Secretary shall develop procedures for determining (on both a current and projected basis) the supply and distribution of and requirements for nurses within the United States and within each State.

"(b) Not later than February 1, 1977, and February 1 of each succeeding year, the Secretary shall report to the Congress—

"(1) his determinations under subsection (a)(1) and the data gathered under subsection (a)(2);

"(2) an analysis of such determination and data; and

"(3) recommendations for such legislation as the Secretary determines, based on such determinations and data, will achieve (A) an equitable distribution of nurses within the United States and within each State, and (B) adequate supplies of nurses within the United States and within each State.

"(c) The Office of Management and Budget may review the Secretary's report under subsection (b) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report."

REPORT TO CONGRESS CONCERNING THE ADMINISTRATION AND IMPACT OF THIS SUBCHAPTER ON NURSE MANPOWER IN THE UNITED STATES

Section 12 of Pub. L. 92–158 provided that: "The Secretary shall prepare and submit to the Congress, prior to June 30, 1974, a final report on the administration of title VIII of the Public Health Service Act [this subchapter] which shall include an estimate of the increase in the number of persons entering the nursing profession effected under such title prior to the enactment of this Act [the Nurse Training Act of 1971, Pub. L. 92–158, Nov. 18, 1971. 85 Stat. 465]; an estimate of such increase effected in consequence of the enactment of this Act; an estimate of the number of nurses in relation to the need of the public therefor; and an appraisal of title VIII, as amended by this Act [see Short Title note set out under this section], to meet long-term national needs for nurses. The Secretary shall submit to the Congress a first interim report prior to June 30, 1973, and a second interim report prior to January 31, 1974, describing his preliminary findings in the preparation of his final report."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296d of this title.

§ 296a. Time of submission and approval of applications for construction grants; determinations; considerations.

(a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this subpart for any fiscal year must be filed.

(b) A grant for a construction project under this subpart may be made only if the application therefor is approved by the Secretary upon his determination that—

* * * * *

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed and (D) in the case of an application for a grant for construction to expand the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 296e(c) of this title, where applicable;

(3) (A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of nursing, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided or are required to meet an increase in student enrollment;

* * * * *

(5) the application contains or is supported by adequate assurances that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40.

Before approving or disapproving an application for a construction project under this subpart, the Secretary shall secure the advice of the National Advisory Council on Nurse Training established by section 298 of this title.

(c) In considering applications for grants, the Council and the Secretary shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities (i) in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for training such nurses), or (ii) in expanding the capacity of the school to provide graduate training; or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned in subparagraph (A)); and

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–158, §§ 2(d)(3), (e), (f), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94–63, title IX, §§ 910(a)(2), 941(a), 89 Stat. 355, 363.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(a)(1)(A), substituted "subpart" for "part".

Subsec. (b). Pub. L. 94–63, § 941(a)(1) (A), (D), (E), substituted "subpart" for "part" in material preceding cl. (1) and following cl. (5), and in such following material, struck out "(hereinafter in this part referred to as the "Council)" following "section 298 of this title" and provisions relating to waiver by the Secretary of enrollment increase requirements of applicants for construction project grants.

Subsec. (b)(2). Pub. L. 94–63, § 941(a)(1)(B), substituted "section 296e(c) of this title" for "subsection (e) of section 296e of this title".

Subsec. (b)(5). Pub. L. 94–63, § 941(a)(1)(C), substituted provisions relating to required assurances for all laborers and mechanics employed on a project, for provisions relating to required assurances for any laborer or mechanic employed on construction of the facility.

Subsec. (c)(1)(A). Pub. L. 94–63, § 910(a)(2), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (c)(1)(B). Pub. L. 94–63, § 941(a)(1)(F), substituted "in subparagraph (A)" for "above in paragraph (A)".

1971—Subsec. (a). Pub. L. 92–158, § 2(e)(1), substituted "The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed" for "No application for a grant for a construction project under this part may be approved unless submitted to the Surgeon General prior to July 1, 1970".

Subsec. (b). Pub. L. 92–158, §§ 2(d)(3), (e)(2), (f)(2), 13, in par. (2)(A), set time limit for use of facility as nonsectarian training facility, in the case of interim facilities, as a shorter period than 20 years as the Secretary prescribes, in par. (2)(D), added "and the requirements of this clause (D) shall be in addition to the requirements of subsection (e) of section 296e of this title, where applicable", in par. (3)(B), substituted "to assist in the" for "for" preceding "replacement", included within this clause facilities used by, as well as, facilities of, an existing school of nursing and added as a criteria of application approval a need for replacement or rehabilitation of facilities necessary to meet a required increase in student enrollment, added at the end of this subsec. a provision permitting the waiver by the Secretary, after consultation with the National Advisory Council on Nurse Training, of enrollment increase provisions of par. (2)(D) of this subsec. if school is not required to meet, in the fiscal year of application, the enrollment increase prescribed by section 296e(e) of this title because of limitations of facilities, if application contains satisfactory assurances that enrollment of first year students enrolled during the first full school year after completion of the project and for each of the next 9 school years thereafter would conform to enrollment requirements under section 296e(e) of this title, without regard to par. (2) thereof, for a grant under subsec. (a) of such section, and substituted "Secretary" for "Surgeon General" in two places within this subsec.

Subsec. (c). Pub. L. 92–158, § 13, substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 942 of Pub. L. 94–63 provided that: "The amendments made by section 941 [enacting section 298b–3 of this title, amending this section and section 296b to 296d, 296f, 297a to 297e, 277g to 297h, 298 and 298b of this title and repealing section 298c–8 of this title] shall take effect July 1, 1975. Except as otherwise specifically provided, the amendments made by section 941 to provisions of title VIII of the Act [this subchapter] are made to such provisions as in effect July 1, 1975, and as amended by part B of this title [see Effective Date of 1975 Amendment note set out under section 296 of this title]."

Section 910(a)(2) of Pub. L. 94–63 provided in part that amendment to subsec. (c)(1)(A) by section 910(a)(2) of Pub. L. 94–63 shall be effective with respect to grants for construction projects under this part made from appropriations under section 296 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2(f)(1) of Pub. L. 92–158 provided in part that the amendment to subsec. (b)(2)(D) of this section by section 2(f)(1) of Pub. L. 92–158 shall be effective in the case of grants made after Nov. 18, 1971.

§ 296b. Amount of construction grant.

(a) Determination.

The amount of any grant for a construction project under this subpart shall be such amount as the Secretary determines to be appropriate after obtaining the advice of the National Advisory Council on Nurse Training; except that—

(1) in the case of a grant—

(A) for a project for a new school,

(B) for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, or

(C) for a project for major remodeling or renovation of an existing facility where such project is required to meet an increase in student enrollment,

the amount of such grant may not exceed 75 per centum of the necessary cost of construction, as determined by the Secretary, of such project; and

(2) in the case of a grant for any other project, the amount of such grant may not, except where the Secretary determines that unusual circumstances make a larger percentage (which may in no case exceed 75 per centum) necessary in order to effectuate the purposes of this subpart, exceed 67 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Reservation of funds.

Upon approval of any application for a grant for a construction project under this subpart, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) Exclusions.

In determining the amount of any such grant under this subpart, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this subpart, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant. (As amended Nov. 18, 1971, Pub. L. 92–158, §§ 2(b), 13, 85 Stat. 465, 480; July 29, 1975, Pub. L. 94–63, title IX, § 941(b), 89 Stat. 364.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(b)(1), substituted provisions relating to determination of amount of grant for a construction project under this subpart, for provisions relating to determination of amount of grant for a construction project under this part.

Subsecs. (b), (c). Pub. L. 94–63, § 941(b)(2) substituted "subpart" for "part" wherever appearing therein.

1971—Subsec. (a). Pub. L. 92–158, §§ 2(b), 13, substituted "Secretary" for "Surgeon General" in two places within this subsection, altered clause (A) by adding to material after "(A) in the case of a grant" the designation "(i)", substituted "(ii)" for "and in the case of a grant", added a new subclause (iii), substituted "75 per centum" for "66⅔ per centum" and in Clause (B) substituted "75 per centum" and "67 per centum" for "66⅔ per centum" and "50 per centum", respectively.

Subsec. (b). Pub. L. 92–158, § 13, substituted "Secretary" for "Surgeon General" in two places and substituted "Secretary's" for "Surgeon General's".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 296c. Recovery of payments.

If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been paid under this subpart—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship,

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–158, §§ 2(d)(3), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94–63, title IX, § 941(c), 89 Stat. 364.)

AMENDMENTS

1975—Pub. L. 94–63 substituted "subpart" for "part" and redesignated pars. (a), (b) and (c) as (1), (2) and (3), respectively.

1971—Pub. L. 92–158, in material preceding subsec. (a), added "(or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe)" following "twenty years" and in subsec. (b), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 296d. Loan guarantees and interest subsidies for constructions of training facilities by nonprofit nursing schools.

(a) Eligible applicants; amount of loan guarantee.

In order to assist nonprofit private schools of nursing to carry out construction projects for training facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, guarantee (in accordance with this section and subject to subsection (f) of this section) to non-Federal lenders or the Federal Financing Bank making loans to such schools for such construction projects payment when due of the principal of and interest on any loan for construction of such facilities if the loan was made to a school which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for such facilities. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant for construction under this subpart or any other law of the United States, exceeds 90 per centum of the cost of construction of the project.

(b) Restrictions on interest subsidy payments.

In the case of any nonprofit private school of nursing which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for training facilities, and to whom a loan has been made by a non-Federal lender or the Federal Financing Bank to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, may, subject to subsection (f) of this section, pay to the holder of such loan (and for and on behalf of the school which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) Submission and approval of applications for loan guarantees or interest subsidy payments.

A loan guarantee or interest subsidy payment may be made under this section only upon an application (submitted in such manner and containing such information as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) Recovery by United States; modification of terms and conditions by Secretary; incontestability of loan guarantee except for fraud or misrepresentations.

(1) The United States shall be entitled to recover from any school of nursing for whom a loan guarantee was made under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary

to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) Establishment of loan guaranty and interest subsidy fund; authorization of appropriations; insufficient sums in fund.

There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed $1,000,000 in the fiscal year ending June 30, 1972, $2,000,000 in the fiscal year ending June 30, 1973, $4,000,000 in the fiscal year ending June 30, 1974, or in the next fiscal year, $1,000,000 in fiscal year 1976, $1,000,000 in fiscal year 1977, and $1,000,000 in fiscal year 1978. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f) Limitation on cumulative total of principal of loans governed by amounts specified in appropriation acts.

(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) of this section and no agreement to make interest subsidy payments may be entered into under subsection (b) of this section if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) of this section in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) of this section and with respect to which an agreement to make interest subsidy payments is entered into under subsection (b) of this section in such fiscal year,

to exceed the amount of grant funds obligated under this subpart in such fiscal year for construction grants; except that this paragraph shall not apply if the amount of grant funds so obligated in such fiscal year equals the sums appropriated for such fiscal year under section 296 of this title.

(g) Administrative assistance from the Department of Housing and Urban Development.

The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof. (July 1, 1944, ch. 373, title VIII, § 805, formerly § 809, as added Nov. 18, 1971, Pub. L. 92–158, § 2(c), 85 Stat. 465, and renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(d), 910(b)(1)(A), (B)(i), (2), (c), 911(b), 941(d), 89 Stat. 355, 356, 364.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

CODIFICATION

Provisions of this section were formerly classified as section 296h of this title prior to reorganization and amendment of this subchapter by Pub. L. 94–63.

PRIOR PROVISIONS

A prior section 296d, act July 1, 1944, ch. 373, title VIII, § 805, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 912, and amended Aug. 16, 1968, Pub. L. 90–490, title II, §§ 211, 215, 82 Stat. 780, 783; Nov. 18, 1971, Pub. L. 92–158, § 3(b), 85 Stat. 469, relating to special project grants and contracts for nurse training programs, was repealed by Pub. L. 94–63, title IX, § 922, July 29, 1975, 89 Stat. 359, eff. July 1, 1975.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, §§ 902(d)(1), 910(b)(1)(A), (B)(i), (c)(1), 941(d), extended period authorizing guarantees from June 30, 1974 to September 30, 1978, added reference to the Federal Financing Bank, substituted "subpart" for "part" wherever appearing therein, and struck out "(1)" and provisions of cl. (2) relating to guarantees applying to more than 90 per centum of the loss of principal of and interest on the loan.

Subsec. (b). Pub. L. 94–63, §§ 902(d)(1), 910(b)(1)(A), (c)(2), 941(d), extended period from the close of June 30, 1974, to the close of September 30, 1978, added reference to the Federal Financing Bank, and substituted "subpart" for "part".

Subsec. (e). Pub. L. 94–63, §§ 902(d)(2), 910(b)(2), authorized appropriations of $4,000,000 for fiscal year 1975, and $1,000,000 for fiscal years 1976, 1977, and 1978.

Subsec. (f). Pub. L. 94–63, § 941(d), substituted "subpart" for "part".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 910(b)(1)(B)(ii) of Pub. L. 94–63 provided that: "The amendment made by clause (i) [amending provisions of subsec. (a) of this section relating to amount of loan guarantees] shall apply with respect to loans guaranteed under subpart I of part A of titpe VIII of the Act [this subpart] after the date of the enactment of this Act [July 29, 1975]."

Amendment by section 910(b)(1)(A), (2), (c) of Pub. L. 94–63, relating to period of loan guarantees and authorizing appropriations, effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Amendment by section 941(d) of Pub. L. 94–63, substituting references to subpart for references to part, effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 298, 298b of this title.

Subpart II.—Capitation Grants

§ 296e. Grants for institutional support.

(a) Computation.

The Secretary shall make annual grants to schools of nursing for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed as follows:

(1) Each collegiate school of nursing shall receive $400 for each undergraduate full-time student enrolled in each of the last two years of such school in such year.

(2) Each associate degree school of nursing shall receive (A) the product of $275 and one-half of the number of full-time students enrolled in the first year of such school in such year, and (B) $275 for each full-time student enrolled in the last year of such school in such year.

(3) Each diploma school of nursing shall receive $250 for each full-time student enrolled in such school in such year.

(b) Apportionment of appropriations.

If the total of the grants to be made under subsection (a) of this section for any fiscal year to schools with approved applications exceeds the amounts appropriated under subsection (f) of this section for such grants, the amount of the grant for that fiscal year to each such school shall be an amount which bears the same ratio to the amount determined for the school for that fiscal year under subsection (a) of this section as the total of the amounts appropriated under subsection (f) of this section for that year bears to the amount required to make grants to each school in accordance with subsection (a) of this section.

(c) Requirements.

(1) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that—

(A) the first-year enrollment of full-time students in the school in the school year beginning after the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

(B) that the school will expend in carrying out its function as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purposes (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought.

The requirement of subparagraph (A) shall be in addition to the requirements of section 296a(b)(2)(D) of this title, where applicable.

(2) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless one of the following requirements is met:

(A) The application for such grant shall contain or be supported by reasonable assurances satisfactory to the Secretary that for the school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1975—

(i) by 10 per centum of such number if such number was not more than one hundred, or

(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred.

(B) The school has provided reasonable assurance satisfactory to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by him, at least two of the following programs in the school year beginning after the close of the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made:

(i) In the case of collegiate schools of nursing, a program for the training of nurse practioners (as defined in section 296m of this title).

(ii) A program under which students enrolled in a school of nursing will receive a significant portion of their clinical training in community health centers, long-term care facilities, and

ambulatory care facilities geographically remote from the main site of the teaching facilities of the school.

(iii) A program for the continuing education of nurses which meets needs identified by appropriate State, regional, or local health or educational entities (including health systems agencies).

(iv) A program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary) under which program at least 10 per centum of each year's entering class (or ten students, whichever is greater) is comprised of such individuals.

(d) Enrollment and graduation determinations; full-time students defined.

(1) For purposes of this part and part D, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part D, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing.

(e) Applications for new schools.

In the case of a new school of nursing which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(f) Authorization of appropriations.

(1) There are authorized to be appropriated $78,000,000 for the fiscal year ending June 30, 1972, $82,000,000 for the fiscal year ending June 30, 1973, $88,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975, $50,000,000 for fiscal year 1976, $55,000,000 for fiscal year 1977, and $55,000,000 for fiscal year 1978 for grants under this section.

(2) No funds appropriated under any provision of this chapter (other than this subsection) may be used to make grants under this section. (July 1, 1944, ch. 373, title VIII, § 810, formerly § 806, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 912, and amended Dec. 5, 1967, Pub. L. 90–174, § 12(a), 81 Stat. 541; Aug. 16, 1968, Pub. L. 90–490, title II, § 211, 82 Stat. 781; Nov. 18, 1971, Pub. L. 92–158, § 4(a), 85 Stat. 470, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(b), 915 (a)–(c), 916 (a), (b), 941(e), 89 Stat. 354, 356, 358, 365.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 915(a), in par. (1) substituted provisions relating to collegiate schools of nursing, for provisions relating to schools of nursing, in par. (2) substituted provisions relating to associate degree schools of nursing, for provisions relating to schools of nursing with training programs for nurse midwives, etc., and added par. (3).

Subsec. (b). Pub. L. 94–63, § 916(b), substituted references to subsec. (f) of this section for references to subsec. (i) of this section.

Subsec. (c). Pub. L. 94–63, § 915(b), added subsec. (c). Former subsec. (c), which set forth criteria for determination of an enrollment bonus student, was struck out.

Subsec. (d). Pub. L. 94–63, §§ 915(b), 916(a), redesignated former subsec. (g) as (d). Former subsec. (d), which set out class size and application requirements for grants for bonus enrollment students, was struck out.

Subsec. (e). Pub. L. 94–63, §§ 915(b), 916(a), redesignated former subsec. (h) as (e). Former subsec. (e), which set out maintenance of effort and enrollment increase requirements and waiver authority for such requirements, was struck out.

Subsec. (f). Pub. L. 94–63, §§ 902(b), 915(b), (c), 916 (a), redesignated former subsec. (i) as (f) and, as so redesignated, authorized appropriations of $88,000,000 for the fiscal year ending June 30, 1975, $50,000,000 for fiscal year 1976, and $55,000,000 for fiscal years 1977 and 1978. Former subsec. (f), which set out requirements for plans, gathering of information and surveys of schools, and reports to Congress was struck out.

Subsecs. (g)–(i). Pub. L. 94–63, § 916(a), redesignated former subsecs. (g) to (i) as (d) to (f), respectively.

1971—Subsec. (a). Pub. L. 92–158 substituted provisions relating to the computation of capitation grants for institutional support, for provisions relating to the distribution and computations of institutional grants.

Subsec. (b). Pub. L. 92–158 substituted provisions relating to apportionment of appropriations for capitation grants for institutional support, for provisions relating to an enrollment increase requirement and the waiver of such requirement with regard to institutional grants.

Subsec. (c). Pub. L. 92–158 substituted the definition of an enrollment bonus student, for provisions relating to the determination of the number of students enrolled and defining full-time students.

Subsecs. (d)–(i). Pub. L. 92–158 added subsecs. (d)–(i).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 917 of Pub. L. 94–63 provided that: "The amendments made by this subpart [amending subsecs. (a)(1)–(3), (b), (c) and (f) of this section, redesignating subsecs (g)–(i) as (d)–(f) of this section, respectively, and repealing subsecs. (c)–(f) of this section] shall take effect with respect to grants made under section 806 (redesignated as section 810 by part C of this title) [this section] of the Act from appropriations under such section for fiscal years beginning after June 30, 1975."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4(a) of Pub. L. 92–158 provided in part that the amendment to this section by section 4(a) of Pub. L. 92–158 shall be effective with respect to appropriations for the fiscal years beginning after June 30, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296a, 298b of this title.

§ 296f. Applications for grants.

(a) Filing date.

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under this subpart for any fiscal year must be filed.

(b) Consultation with Council.

The Secretary shall not approve or disapprove any application for a grant under this subpart except after consultation with the National Advisory Council on Nurse Training.

(c) Eligibility; contents.

A grant under this subpart may be made only if the application therefor—

(1) is from a public or nonprofit private school of nursing;

(2) contains such additional information as the Secretary may require to make the determinations required of him under this subpart and such assurances as he may find necessary to carry out the purposes of this subpart; and

(3) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart.

(July 1, 1944, ch. 373, title VIII, § 811, formerly § 807, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 212, 82 Stat. 782, and amended Nov. 18, 1971, Pub. L. 92–158, § 4(c), 85 Stat. 475, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(f), 89 Stat. 365.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(f)(1), substituted reference to this subpart for reference to section 296d, 296e, or 296i of this title.

Subsec. (b). Pub. L. 94–63, § 941(f)(2), substituted "subpart" for "part".

Subsec. (c). Pub. L. 94–63, § 941(f)(3), (4), in introductory material substituted reference to this subpart for reference to section 296d, 296e, or 296i of this title, in par. (1) struck out applicability to grants under section 296d or 296i of this title, and in pars. (2) and (3) substituted "this subpart" for "those sections" wherever appearing therein.

1971—Subsec. (a). Pub. L. 92–158, § 4(c)(1), substituted "section 296d, 296e, or 296i of this title" for "section 296d or 296e of this title".

Subsec. (c). Pub. L. 92–158, § 4(c)(1), substituted "section 296d, 296e, or 296i of this title" for "section 296d or 296e of this title".

Subsec. (c)(1). Pub. L. 92–158, § 4(c)(2), added "or 296i" following "section 296d".

Subsec. (c)(2). Pub. L. 92–158, § 4(c)(3), (4), deleted former par. (2) which permitted a grant under section 296d or 296e of this title only if the application contained assurances that the applicant would expend an amount of funds from non-Federal sources to carry out its functions as a school of nursing, during the fiscal year for which the grant was sought, which were at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant was sought, and redesignated former par. (3) as par. (2) and as so redesignated, substituted "those sections" for "this part" in two places.

Subsec. (c)(3). Pub. L. 92–158, § 4(c)(3), (4), redesignated former par. (4) as par. (3) and as so redesignated, substituted "those sections" for "this part". Former par. (3) redesignated par. (2).

Subsec. (c)(4). Pub. L. 92–158, § 4(c)(4), redesignated former par. (4) as par. (3).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 296g. Repealed. Pub. L. 94–63, title IX, § 922, July 29, 1975, 89 Stat. 359.

Section, act July 1, 1944, ch. 373, title VIII, § 808, as added Aug. 16, 1968, Pub. L. 90–490, title II § 212, 82 Stat. 783, and amended Nov. 18, 1971, Pub. L. 92–158, § 3(a), 85 Stat. 469; July 29, 1975, Pub. L. 94–63, title IX, § 902(c), 89 Stat. 354, authorized appropriations for special project grants and contracts and financial distress grants from the fiscal year ending June 30, 1972 through the fiscal year ending June 30, 1975.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

§ 296h. Loan guarantees and interest subsidies for construction of training facilities by nonprofit nursing schools.

CODIFICATION

Provisions of this section have been transferred to section 296d of this title pursuant to reorganization and amendment of this subchapter by Pub. L. 94–63.

§ 296i. Repealed. Pub. L. 94–63, title IX, § 931(b), July 29, 1975, 89 Stat. 362.

Section, act July 1, 1944, ch. 373, title VIII, § 810, as added Nov. 18, 1971, Pub. L. 92–158, § 4(b), 85 Stat. 474, and amended July 29, 1975, Pub. L. 94–63, title IX, § 902(e), 89 Stat. 355, authorized grants for start-up programs for new nurse training programs, and set out presequisites, etc.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Subpart III.—Financial Distress Grants [New]

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 298 of this title.

§ 296j. Grants for operational costs or meeting accreditation requirements.

(a) Authorization; terms and conditions.

The Secretary may make grants to assist public or non-profit private schools of nursing which are in serious financial straits to meet operational costs required to maintain quality educational programs or which have special need for financial assistance to meet accreditation requirements. Any such grant may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

(b) Submission and approval of application; contents or required assurances of application; waiver.

(1) No grant may be made under subsection (a) of this section unless an application therefor is submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training.

(2) An application for a grant under subsection (a) of this section must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in

the three fiscal years immediately preceding the fiscal year for which such grant is sought. The Secretary may, after consultation with the National Advisory Council on Nurse Training, waive the requirement of the preceding sentence with respect to any school if he determines that the application of such requirement to such school would be inconsistent with the purposes of subsection (a) of this section.

(c) Authorization of appropriations.

For payments under grants under this section there are authorized to be appropriated $5,000,000 for fiscal year 1976, $5,000,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978. (July 1, 1944, ch. 373, title VIII, § 815, as added July 29, 1975, Pub. L. 94–63, title IX, § 921, 89 Stat. 358.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Subpart IV.—Special Projects [New]

§ 296k. Grants and contracts for special projects.

(a) Covered costs; nonapplicability of statutory provisions to contracts.

The Secretary may make grants to public and nonprofit private schools of nursing and other public or nonprofit private entities, and enter into contracts with any public or private entity, to meet the costs of special projects to—

(1) assist in—

(A) mergers between hospital training programs or between hospital training programs and academic institutions, or

(B) other cooperative arrangements among hospitals and academic institutions,

leading to the establishment of nurse training programs;

(2) (A) plan, develop, or establish new nurse training programs or programs of research in nursing education, or

(B) significantly improve curricula of schools of nursing (including curriculums of pediatric nursing and geriatric nursing) or modify existing programs of nursing education;

(3) increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, by—

(A) identifying, recruiting, and selecting such individuals,

(B) facilitating the entry of such individuals into schools of nursing,

(C) providing counseling or other services designed to assist such individuals to complete successfully their nursing education.

(D) providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

(E) paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education, and

(F) publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

(4) provide continuing education for nurses;

(5) provide appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire again actively to engage in the nursing profession;

(6) help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel (including nursing personnel who are bilingual) needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care;

(7) provide training and education to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel; or

(8) assist in meeting the costs of developing short-term (not to exceed 6 months) in-service training programs for nurses aides and orderlies for nursing homes, which programs emphasize the special problems of geriatric patients and include training for monitoring the well-being and feeding and cleaning of the patients in nursing homes, emergency procedures, drug properties and interactions, and fire safety techniques.

Contracts may be entered into under this subsection without regard to section 529 of Title 31 and section 5 of Title 41.

(b) Encouragement and assistance in utilization of medical facilities by Federal departments and agencies for nurse training programs.

The Secretary may, with the advice of the National Advisory Council on Nurse Training, provide assistance to the heads of other departments and agencies of the Government to encourage and assist in the utilization of medical facilities under their jurisdiction for nurse training programs.

(c) Submission and approval of application; required contents of application.

No grant or contract may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(d) Authorization of appropriations.

For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1976, $15,000,000 for fiscal year 1977, and $15,000,000 for fiscal year 1978. Not less than 10 per centum of the funds appropriated under this subsection for any fiscal year shall be used for payments under grants and contracts to meet the costs of the special projects described in subsection (a) (3) of this section. (July 1, 1944, ch. 373, title

VIII, § 820, as added July 29, 1975, Pub. L. 94–63, title IX, § 931(a), 89 Stat. 359.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

§ 296*l*. Grants and contracts for advanced nurse training programs; covered costs; authorization of appropriations.

(a)(1)[1] The Secretary may make grants to and enter into contracts with public and nonprofit private collegiate schools of nursing to meet the costs of projects to—

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

(b) For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1975, $20,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978. (July 1, 1944, ch. 373, title VIII, § 821, as added July 29, 1975, Pub. L. 94–63, title IX, § 931(a), 89 Stat. 361.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

§ 296m. Grants and contracts for nurse practitioner training programs.

(a) Covered costs; priorities for applications; definition; guidelines for programs; minimum requirements for guidelines.

(1) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the cost of projects to—

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the training of nurse practitioners. The Secretary shall give special consideration to applications for grants or contracts for programs for the training of nurse practitioners which emphasize training respecting the special problems of geriatric patients and training to meet the particular needs of nursing home patients.

(2)(A) For purposes of this section, the term "programs for the training of nurse practitioners" means educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meet guidelines prescribed by the Secretary in accordance with subparagraph (B) and which have as their objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

(B) After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs for the training of nurse practitioners. Such guidelines shall, as a minimum, require that such a program—

(i) extend for at least one academic year and consist of—

(I) supervised clinical practice, and

(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing nurses to deliver primary health care; and

(ii) have an enrollment of not less than eight students.

(b) Required assurances in applications.

No grant may be made or contract entered into for a project to plan, develop, and operate a program for the training of nurse practitioners unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program will upon its development meet the guidelines which are in effect under subsection (a)(2)(B) of this section; and no grant may be made or contract entered into for a project to expand or maintain such a program unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program meets the guidelines which are in effect under such subsection.

(c) Additional covered costs.

The costs for which a grant or contract under this section may be made may include costs of preparation of faculty members in order to conform to the guidelines established under subsection (a)(2)(B) of this section.

(d) Authorization of appropriations.

For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978. (July 1, 1944, ch. 373, title VIII, § 822, as added July 29, 1975, Pub. L. 94–63, title IX, § 931(a), 89 Stat. 361.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

GUIDELINES FOR NURSE PRACTITIONER TRAINING PROGRAMS

Section 932 of Pub. L. 94–63 provided that: "The Secretary of Health, Education, and Welfare shall within ninety days of the date of the enactment of this Act [July 29, 1975] prescribe the guidelines for nurse practitioner programs specified in section 822(a) of the Act (as added by section 931 of this title) [subsec. (a) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296e, 297 of this title.

PART B.—ASSISTANCE TO NURSING STUDENTS

Subpart I.—Traineeships

§ 297. Traineeships for training of professional nurses.

(a) Authorization of appropriations.

There are authorized to be appropriated $15,000,000 for fiscal year 1976, $20,000,000 for fiscal year

[1] Section enacted without a subsec. (a)(2).

1977, and $25,000,000 for fiscal year 1978, to cover the costs of traineeships for the training of professional nurses—

(1) to teach in the various fields of nurse training (including practical nurse training),

(2) to serve in administrative or supervisory capacities,

(3) to serve as nurse practitioners, or

(4) to serve in other professional nursing specialties determined by the Secretary to require advanced training.

(b) Grants; preferences for applications.

Traineeships under this section shall be awarded by the Secretary through grants to public or nonprofit private institutions providing the training. In making grants for traineeships under this section, the Secretary shall give special consideration to applications for traineeship programs which conform to guidelines established by the Secretary under section 296m (a) (2) (B) of this title.

(c) Payments; limitations.

Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees. (July 1, 1944, ch. 373, title VIII, § 830, formerly § 821, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 913, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 221, 82 Stat. 783; July 9, 1971, Pub. L. 92–52, § 5, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, §§ 5, 13, 85 Stat. 475, 480, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 935, 941 (g) (2), 89 Stat. 362, 365.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 935(a), substituted provisions relating to authorization of appropriations for fiscal years 1976 through 1978, for provisions relating to authorization of appropriations for the fiscal year ending June 30, 1965 through the fiscal year ending June 30, 1975, and added provision authorizing use of funds for training nurses to serve as nurse practitioners.

Subsec. (b). Pub. L. 94–63, § 935(b), added provision relating to preference to application conforming to guidelines under section 296m (a) (2) (B) of this title.

1971—Subsec. (a). Pub. L. 92–158, §§ 5, 13, authorized appropriations of $20,000,000, $22,000,000, and $24,000,000 for the fiscal years ending June 3, 1972, 1973, and 1974, respectively and substituted "Secretary" for "Surgeon General".

Pub. L. 92–52 substituted "each for the fiscal year ending June 30, 1971, and the next fiscal year" for "for the fiscal year ending June 30, 1971".

Subsec. (b). Pub. L. 92–158, § 13, substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 92–158, § 13, substituted "Secretary" for "Surgeon General" in two places.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 935(b) of Pub. L. 94–63 provided in part that the amendment of subsec. (b) by Pub. L. 94–63 is effective with respect to grants under this section from appropriations under this section for fiscal years beginning after June 30, 1975.

Amendment by section 935(a) of Pub. L. 94–63 effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Subpart II.—Student Loans

§ 297a. Loan agreements; student loan fund; provisions of agreements.

(a) The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or nonprofit private school of nursing which is located in a State.

(b) Each agreement entered into under this section shall—

* * * * *

(2) provide for deposit in the fund, except as provided in section 297h of this title, of (A) the Federal capital contributions paid from allotments under section 297d of this title to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 297b(f) of this title, and (E) any other earnings of the fund;

(3) provide that the fund except as provided in section 297h of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collecteion of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school before October 1, 1978, shall receive a loan from a loan fund established under section 424 of Title 20, and

* * * * *

(July 1, 1944, ch. 373, title VIII, § 835, formerly § 822, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 913, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 222(a), (c) (2), 82 Stat. 783, 784; Nov. 18, 1971, Pub. L. 92–158, § 6(d) (3), (e), 85 Stat. 478; Aug. 23, 1974, Pub. L. 93–385, § 3(b), 88 Stat. 741, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 936(a), 941(h) (1)–(3), (i) (1), (2), 89 Stat. 362, 365, 366.)

AMENDMENTS

1975—Subsec. (a), Pub. L. 94–63, § 941(h) (1), (2), substituted "subpart" for "part" and struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (b). Pub. L. 94–63, §§ 936(a), 941(h) (3), (1) (2), in cl. (2) substituted "from allotments under section 297d of this title" for "under this part", in cl. (4) substituted "October 1, 1978" for "July 1, 1975", and in cls. (2) and (3) substituted references to sections 836 and 841 of the Act for references to sections 823 and 829, which had previously been translated as sections 297b and 297h of this title, respectively, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

1974—Subsec. (b) (4). Pub. L. 93–385 substituted "1975" for "1974".

1971—Subsec. (b) (4). Pub. L. 92–158 substituted "full-time or half-time course of study" for "full-time course of study" and "1974" for "1971".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(a) of Pub. L. 94–63, extending applicability to October 1, 1978, effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Amendment by section 941(h)(1)–(3), and (l)(2) of Pub. L. 94–63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 297c, 297e, 297h, 297k, 298b of this title.

§ 297b. Loan provisions.

(a) Maximum amount per individual per year; preference to first year students.

The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this subpart may not exceed $2,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $10,000 for any student. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after enactment of this subchapter.

(b) Terms and conditions.

Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act, and (B) periods (up to five years) during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist);

(3) an amount up to 85 per centum of any such loan (plus interest thereon) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers), at the rate of 15 per centum of the amount of such loan (plus interest) unpaid on the first day of such service for each of the first, second, and third complete year of such service, and 20 per centum of such amount (plus interest) for each complete fourth and fifth year of such service;

* * * * *

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart such note or other evidence of a loan may be transferred to such other school.

(c) Cancellation.

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Installments.

Any loan for any year by a school from a student loan fund established pursuant to an agreement under this subpart shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipent of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) Availability to eligible students in need.

An agreement under this subpart with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Penalty for late payment.

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) of this section or cancellation of part or all of the loan under subsection (b)(3) of this section, for any failure to file timely and satisfactory evidence for such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafer. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the

charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) Minimum monthly repayment.

A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(h) Shortage area; service agreement; reimbursement.

(1) In the case of any individual—

(A) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

(B) who obtained (A) one or more loans from a loan fund established under this subpart, or (B) any other educational loan for nurse training costs; and

(C) who enters into an agreement with the Secretary to serve as a nurse for a period of at least two years in an area in a State determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for nurses;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of that individual described in subparagraph (B) of this paragraph which is outstanding on the date the individual begins the service specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1) (B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or paragraph (2) (C), and that the borrower will continue to be so engaged for the period required (in the absence of this paragraph) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) or assurances provided pursuant to paragraph (2) (C) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2) (A) or paragraph (3) in consideration of such agreement.

(i) Loan cancellation.

Notwithstanding the amendment made by section 6 (b) of the Nurse Training Act of 1971 to this section—

(A) any person who obtained one or more loans from a loan fund established under this subpart, who before November 18, 1971, became eligible for cancellation of all or part of such loans (including accrued interest) under this section (as in effect on the day before such date), and who on such date was not engaged in a service for which loan cancellation was authorized under this section (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this subpart and who on such date was engaged in a service for which cancellation of all or part of such loans (including accrued interest) was authorized under this section (as so in effect), this section (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such service.

Nothing in this subsection shall be construed to prevent any person from entering into an agreement for loan cancellation under subsection (h) of this section (as amended by section 6(b)(2) of the Nurse Training Act of 1971).

(j) Loan repayment.

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a nursing student, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete the nursing studies with respect to which such loan was made;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, such nursing studies within two years following the date upon which the applicant terminated the studies with respect to which such loan was made.

(July 1, 1944, ch. 373, title VIII, § 836, formerly § 823, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat.

914, and amended Oct. 22, 1965, Pub. L. 89–290, § 4 (g) (2), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(b), (c) (1), 82 Stat. 783, 784; Nov. 18, 1971, Pub. L. 92–158, § 6(a), (b) (1), (e), 85 Stat. 475–478; renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 936(b), 941(h) (1), (2), (5), (i) (1), 89 Stat. 363, 365.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (b) (2) (A) (ii), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

Section 6(b) (2) of the Nurse Training Act of 1971, referred to in subsec. (i), added section 297l of this title, which was transferred and resdesignated as subsec. (j) of this section pursuant to section 941(h) (5) of Pub. L. 94–63, title IX, July 29, 1975, 89 Stat. 365.

The amendment made by section 6(b) of the Nurse Training Act of 1971 to this section, referred to in subsec. (i), which amended subsec. (b) (3) of this section and added subsec. (h) of this section and provisions editorially classified as subsec. (i), is contained in section 6(b) (1) of Pub. L. 92–158, Nov. 18, 1971, 85 Stat. 476.

CODIFICATION

Provisions of subsec. (i) of this section were, in the original, enacted without directory language with respect to classification in the Code and have been editorially set out as subsec. (i) as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(h) (1), substituted "subpart" for "part".

Subsec. (b). Pub. L. 94–63, § 941(h) (2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (b) (2) (B). Pub. L. 94–63, § 936(b), added "(or training to be a nurse anesthetist)" following "professional training in nursing".

Subsec. (b) (7). Pub. L. 94–63, § 941(h) (1), substituted "subpart" for "part".

Subsec. (c). Pub. L. 94–63, § 941(h) (2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsecs. (d)–(i). Pub. L. 94–63, § 941(h) (1), substituted "subpart" for "part" whenever appearing therein.

Subsec. (j). 94–63, § 941(h) (5), added subsec. (j), formerly classified as section 297l of this title pursuant to enactment as section 830 of act July 1, 1944, cl. 373. Section 941(h) (5) (A) of Pub. L. 94–63 transferred such former section to this section and section 941(h) (5) (B) redesignated provision as subsec. (j).

1971—Subsec. (a). Pub. L. 92–158, § 6(a), substituted "$2,500" for "$1,500" and "$10,000" for "$60,000".

Subsec. (b) (1). Pub. L. 92–158, § 6(e), substituted "full-time or half-time course of study" for "full-time course of study".

Subsec. (b) (2). Pub. L. 92–158, § 6(e), in material preceding clause (A), substituted "full-time or half-time course of study" for "full-time course of study".

Subsec. (b) (3). Pub. L. 92–158, § 6(b) (1) (A), substituted provisions cancelling up to 85% of loan, for provisions cancelling up to 50% of loan, where borrower holds full-time employment as a professional nurse, added to areas of possible employment under this par. by inserting reference to any public or nonprofit organization including neighborhood health centers, substituted, with regard to the rate of cancellation of loan, the rate of 15% of the amount unpaid on the first day of service, continuing at such rate with each of the first, second and third complete years of such service and 20% of such amount with each complete fourth and fifth year of service for the rate of 10% of the amount unpaid on the first day of service and to continue with each complete year of service, and struck out reference to 15% rate of cancellation per complete year of service plus, for the purpose of such higher rate, the cancellation of an additional 50% of such loan where such service is in a public or nonprofit hospital in any area which is determined, in accordance with the regulations of the Secretary, to be in an area having a substantial shortage of such nurses at such hospitals.

Subsec. (h). Pub. L. 92–158, § 6(b) (1) (B), added subsec. (h).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 936(b) of Pub. L. 94–63 provided in part that the amendment of subsec. (b) (2) (B) by Pub. L. 94–63 is effective with respect to periods of training to be a nurse anesthetist undertaken on or after July 29, 1975.

Amendment by section 941(h) (1), (2), (5) of Pub. L. 94–63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6(a) (1) of Pub. L. 92–158 provided in part that the amendment to subsec. (a) of this section by section 6(a) (1) of Pub. L. 92–158 shall be effective with respect to academic years (or their equivalent as determined under regulations of the Secretary of Health, Education, and Welfare under this section) beginning after June 30, 1971.

§ 297c. Authorization of appropriations for student loan funds.

There are authorized to be appropriated for allotments under section 297d of this title to schools of nursing for Federal capital contributions to their student loan funds established under section 297a of this title, $25,000,000 for fiscal year 1976, $30,000,000 for fiscal year 1977, and $35,000,000 for fiscal year 1978. For fiscal year 1979, and for each of the next two succeeding fiscal years there are authorized to be appropriated such sums as may be necessary to enable students who have received a loan for any academic year ending before October 1, 1978, to continue or complete their education. (July 1, 1944, ch. 373, title VIII, § 837, formerly § 824, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 915, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(b), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(d), 82 Stat. 784; July 9, 1971, Pub. L. 92–52, § 3(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–158, § 6(c), 85 Stat. 477; Aug. 23, 1974, Pub. L. 93–385, § 3(a), 88 Stat. 741, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 936(c), 941(i) (1), (3), 89 Stat. 363, 365, 366.)

AMENDMENTS

1975—Pub. L. 94–63, §§ 936(c), 941(1) (3), substituted provisions authorizing appropriations for allotments for schools of nursing for Federal capital contributions to their student loan funds for fiscal years 1976 to 1978 and for fiscal 1979 and the next two succeeding fiscal years additional necessary sums, for provisions authorizing appropriations for capital contributions for the fiscal year ending June 30, 1965 through the fiscal year ending June 30, 1974, and for the fiscal year ending June 30, 1975 and the next two succeeding fiscal years additional necessary sums, and substituted references to sections 838 and 835 of the Act for references to sections 825 and 822, respectively, which for purposes of codification were translated as sections 297d and 297a of this title.

1974—Pub. L. 93–385 authorized appropriations of $35,000,000 for the fiscal year ending June 30, 1975.

1971—Pub. L. 92–158 substituted authorized appropriations of $21,000,000, $25,000,000, $30,000,000 and $35,000,000 for the fiscal years ending June 30, 1971, 1972, 1973, and 1974, respectively, plus such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students receiving a loan for any academic year ending before July 1, 1974 to continue or complete their education, for an authorized appropriation of $21,000,000 each for the fiscal years ending June 30, 1971 and 1972, plus such sums for the fiscal year ending June 30, 1973, and each of the two succeeding fiscal years as may be necessary to enable students receiving a loan for any academic year ending before July 1, 1972, to continue or complete their education.

Pub. L. 92–52 substituted "each for the fiscal year ending June 30, 1971, and the next fiscal year" for "for

the fiscal year ending June 30, 1971", "1973" for "1972" and "July 1, 1972" for "July 1, 1971".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(c) of Pub. L. 94–63, relating to authorization of appropriations, effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Amendment by section 941(i)(3) of Pub. L. 94–63, revising designations of sections in text, effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297d of this title.

§ 297d. Allotments and payments of Federal capital contributions.

(a) Determination of amount of allotment.

From the sums appropriated pursuant to section 297c of the title for any fiscal year, the Secretary shall allot to each school an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such school bears to the total number of persons enrolled on a full-time basis in all schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this subpart. Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this subpart.

(b) Application for allotment; adjustment or reduction of amount requested in application; reallotment of amount.

(1) The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Secretary may reallot the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) Manner of payment.

The Federal capital contributions to a loan fund of a school under this subpart shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school. (July 1, 1944, ch. 373, title VIII, § 938, formerly § 825, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 915, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(c), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(e), 82 Stat. 785; renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(h)(1), (2), (4)(A), (i)(1), (4), 89 Stat. 365, 366.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(h)(1), (4)(A)(i), (i)(4), substituted "subpart" for "part" wherever appearing therein, struck out "(whether as Federal capital contributions or as loans to schools under section 297f of this title)" preceding "which are in excess", and substituted references to section 847 of the Act for references to section 824, which had previously been translated as section 297c of this title, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsec. (b)(1). Pub. L. 94–63, § 941(h)(4)(A)(ii), struck out ", and for loans pursuant to section 297f of this title," following "contributions".

Subsec. (b)(2). Pub. L. 94–63, § 941(h)(2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (c). Pub. L. 94–63, § 941(h)(1), substituted "subpart" for "part".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 297a, 297c of this title.

§ 297e. Distribution of assets from loan funds.

(a) After September 30, 1980, and not later than December 31, 1980, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 297a of this title by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1980, as the total

amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 297a(b)(2)(A) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After December 31, 1980, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1980, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a) of this section. (July 1, 1944, ch. 373, title VIII, § 839, formerly § 826, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 916, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(d), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(f), 82 Stat. 785; July 9, 1971, Pub. L. 92–52, § 3(b), 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 6(d)(1), 85 Stat. 478, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 936(d), 941(h)(1), (2), (4)(B), (i)(1), (5), 89 Stat. 363, 365, 366.)

CODIFICATION

"December 31, 1980" has been editorially substituted for "September 30, 1977" in subsec. (a) of this section in order to conform to the probable intent of Congress evidenced by amendment of subsec. (b) of this section to similar and related provisions.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, §§ 936(d), 941(h)(2), (i)(5), substituted "September 30, 1980" for "June 30, 1977" wherever appearing therein, struck out "of Health, Education, and Welfare" following "Secretary", and substituted references to section 835 of the Act for references to section 822, which had previously been translated as section 297a of this title, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsec. (b). Pub. L. 94–63, §§ 936(d), 941(h)(1), (4)(B), substituted "subpart" for "part", "September 30, 1980" for "June 30, 1977", and "December 31, 1980" for "September 30, 1977" and struck out provisions relating to payments from the revolving fund established by section 297f(d) of this title.

1971—Pub. L. 92–158 substituted "1977" for "1975" wherever appearing.

Pub. L. 92–52 substituted "1975" for "1974" in five places.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(d) of Pub. L. 94–63, extending applicability of provisions, effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Amendment by section 941(h)(1), (2), (4)(B), (i)(5) of Pub. L. 94–63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 297f. Repealed. Pub. L. 94–63, title IX, § 936(e)(1), July 29, 1975, 89 Stat. 363.

Section, act July 1, 1944, ch. 373, title VIII, § 827, as added Sept. 4, Pub. L. 88–581, § 2, 78 Stat. 917, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(a), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(g), 82 Stat. 785; July 9, 1971, Pub. L. 92–52, § 3(c), 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 6(d)(2), 85 Stat. 478, set out provisions relating to terms, conditions, limitations, manner of payment, etc., of loans to schools of nursing to capitalize student loan funds.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

AVAILABILITY OF NURSE TRAINING REVOLVING FUND FOR PAYMENT OF OBLIGATIONS DEPOSITS INTO FUND; TRANSFER OF EXCESS AMOUNTS TO GENERAL FUND OF TREASURY AUTHORIZATION OF APPROPRIATIONS.

Section 936(e)(2), (3), of Pub. L. 94–63 provided that:

"(2) The nurse training fund created within the Treasury by section 827(d)(1) of the Act [former subsec. (d)(1) of the section] shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acqured under section 827 of the Act [formerly ths section]. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 27. If at any time the Secretary determines the moneys in the funds exceed the present and any reasonable prospective further requirements of such fund, such excess may be transferred to the general fund of the Treasury.

"(3) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 827(b) of the Act [former subsec. (b) of this section] before the date of the enactment of this Act [July 29, 1975]."

§ 297g. Modification of agreements; compromise, waiver or release.

The Secretary may agree to modifications of agreements made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart. (July 1, 1944, ch. 373, title VIII, § 840, formerly § 828, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(h)(1), (4)(C), (i)(1), 89 Stat. 365.)

AMENDMENTS

1975—Pub. L. 94–63, § 941(h)(1), (4)(C), substituted "subpart" for "part" wherever appearing therein and struck out "or loans" following "agreements".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 297h. Transfers to scholarship program.

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under subpart III of this part to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 297a(b)(2)(B) of this title with respect to the amount so transferred may be withdrawn by the school from such fund. (July 1, 1944, ch. 373, title VIII, § 841, formerly § 829, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 222(h), 82 Stat. 785, renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(i)(1), (6), 89 Stat. 365, 366.)

AMENDMENTS

1975—Pub. L. 94–63, § 941(i)(6), substituted "subpart III of this part" for "part D" and reference to section 835 of the Act for reference to section 822, which had

previously been translated as section 297a of this title, requiring no further translation in the text as a result of the renumbering of the Public Health Service Act.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 297i. Loan forgiveness.

CODIFICATION

Provisions of this section have been transferred to and redesignated as section 297b(j) of this title by Pub. L. 94–63, title IX, § 941(h)(5), July 29, 1975, 89 Stat. 365. See 1975 Amendment note set out under section 297b of this title.

Subpart III.—Scholarships Grants to Schools of Nursing

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 297h of this title.

§ 297j. Scholarship grants.

(a) Eligible schools of nursing; annual award of scholarships to students.

The Secretary shall make grants as provided in this section to each public or other nonprofit school of nursing for scholarships to be awarded annually by such school to students thereof.

(b) Amount of grants.

The amount of the grant under subsection (a) of this section for the fiscal year ending June 30, 1976, and for each of the next two fiscal years to each such school shall be equal to $3,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, the grant under subsection (a) of this section shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending before October 1, 1978.

(c) Recipients of scholarships; uses of funds; limitation on amount of scholarship.

(1) Scholarships may be awarded by schools from grants under subsection (a) of this section—

(A) only to individuals who have been accepted by them for enrollment, and individuals enrolled and in good standing, as full-time or half-time students, in the case of awards from such grants for the fiscal year ending June 30, 1976, and the next two fiscal years; and

(B) only to individuals enrolled and in good standing as full-time or half-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to October 1, 1978, in the case of awards from such grants for the fiscal year ending September 30, 1979, and each of the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) of this section for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $2,000 for any year in the case of any student, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Regulations.

Grants under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council of Nurse Training.

(e) Manner of payment.

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find it necessary; and with appropriate adjustments on account of overpayments or underpayments previously made. (July 1, 1944, c. 373, Title VIII, § 845, formerly § 860, as added Aug. 16, 1968, Pub. L. 90–490, Title II, § 223(a), 82 Stat. 785, and amended July 9, 1971, Pub. L. 92–52, § 4, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 7, 85 Stat. 478; renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(f), 937, 941(j)(1), (2), 89 Stat. 355, 363, 366.)

CODIFICATION

Provisions of this section were formerly set out as section 298c of this title prior to the reorganization and amendment of this subchapter by Pub. L. 94–63.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(j)(2), substituted "section" for "part".

Subsec. (b). Pub. L. 94–63, §§ 902(f)(1)–(3), 937, extended authorization for grants from the fiscal year ending June 30, 1972 and for each of the next two fiscal years to the fiscal year ending June 30, 1976, and for each of the next two fiscal years, and extended from the fiscal year ending June 30, 1975 to the fiscal year ending September 30, 1979 authorization for continuation of necessary grants received by schools and basis of computation to fiscal years ending before October 1, 1978 from fiscal years ending before July 1, 1974.

Subsec. (c)(1)(A). Pub. L. 94–63, §§ 902(f)(4), 937(1), extended authorization for awards from the fiscal year ending June 30, 1972, and the next two fiscal years to the fiscal year ending June 30, 1976, and the next two fiscal years.

Subsec. (c)(1)(B). Pub. L. 94–63, §§ 902(5), (6), 937(2), (3), extended authorization for awards from the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years to the fiscal year ending September 30, 1979, and each of the two succeeding fiscal years and basis of computation from fiscal year ending prior to July 1, 1974 to fiscal year ending prior to October 1, 1978.

1971—Subsec. (b). Pub. L. 92–158, § 7(1), substituted "1972" for "1970", added "for each of" preceding "the next two fiscal years", substituted "$3,000" for "$2,000", "1975" for "1973", "two succeeding fiscal years" for "three succeeding fiscal years" and "ending before July 1, 1974" for "ending prior to July 1, 1972".

Pub. L. 92–52, § 4(a), substituted "the next two fiscal years" for "the next fiscal year", "1973" for "1972" and "1972" for "1971".

Subsec. (c)(1). Pub. L. 92–158, § 7(2), (4), in cl. (A), substituted "1972, and the next two fiscal years" for "1970, and the next two fiscal years" and added "or half-time" preceding "students", and, in cl. (B), added "or half-time" preceding "students", and substituted "1974" for "1972" and "1975, and each of the two" for "1973, and each of the three".

Pub. L. 92–52, § 4(b)(1), (2), in cl. (A), substituted "the next two fiscal years" for "the next fiscal year", and in cl. (B), substituted "1972" for "1971" and "1973" for "1972".

Subsec. (c)(2). Pub. L. 92–158, § 7(3), substituted "$2,000" for "$1,500".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 937 of Pub. L. 94–63, extending authorization of appropriations, effective July 1, 1975, see

section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

Amendment by section 941(j)(2) of Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 7 of Pub. L. 92–158 provided in part that the amendments to subsecs. (b) and (c) of this section by section 7(1)–(4) of Pub. L. 92–158 shall be effective with respect to scholarship grants made under subsec. (a) of this section for the fiscal years beginning after June 30, 1971.

EFFECTIVE DATE

Section 223(b) of Pub. L. 90–490 provided that: "The amendment made by subsection (a) [enacting this section and section 298c–1 of this title and omitting sections 298c–2 to 298c–6 of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297k of this title.

§ 297k. Transfers to student loan program.

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for scholarships under section 297j of this title, or such larger percentage thereof as the Secretary may approve for such school for such year, may be transferred to the student loan fund of the school established under an agreement under section 297a of this title. Funds transferred under this section to such a student loan fund shall be considered as part of the Federal capital contributions to such fund. (July 1, 1944, ch. 373, title VIII, § 846, formerly § 861, as added Aug. 16, 1968, Pub. L. 90–490, Title II, § 223(a), 82 Stat. 786, and renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(j)(1), (3), 89 Stat. 366.)

CODIFICATION

Provisions of this section were formerly set out as section 298c–1 of this title prior to the reorganization and amendment of this subchapter by Pub. L. 94–63.

AMENDMENTS

1975—Pub. L. 94–63, § 941(j)(3), substituted "section 297j of this title" for "this part", and provisions relating to transfers to the student loan fund of the school, for provisions relating to transfers to the sums available to the school for Federal capital contributions.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 223(b) of Pub. L. 90–490, set out as a note under section 298c of this title.

PART C.—GENERAL

§ 298. National Advisory Council on Nurse Training.

(a) There is hereby established a National Advisory Council on Nurse Training, consisting of the Secretary (or his delegate), who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and nineteen members appointed by the Secretary without regard to the civil service laws. Three of the appointed members shall be selected from full-time students enrolled in schools of nursing, four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services. The student members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.

(b) The Council shall advise the Secretary (or his delegate) in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter, and in the review of applications for construction projects under subpart I of part A of this subchapter, of applications under section 296d of this title and of applications under subpart III of part A of this subchapter. (July 1, 1944, ch. 373, title VIII, § 851, formerly § 841, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917, and amended Nov. 3, 1966, Pub. L. 89–751, § 3(b), 80 Stat. 1230; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92–158, §§ 9, 13, 85 Stat. 479, 480; renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(k)(1), (2), 89 Stat. 366.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(k)(2)(C), redesignated former subsec. (a)(1) as (a). Former subsec. (a)(2) was redesignated as (b).

Subsec. (b). Pub. L. 94–63, § 941(k)(2)(A), (B), (D), redesignated former subsec. (a)(2) as (b), and, as so redesignated, added "subpart I of" following "projects under" and "and of applications under subpart III of part A of this subchapter" following "296d of this title,". Former subsec. (b), which related to appointment, membership, etc., of review committees, was omitted.

1971—Subsec. (a)(1). Pub. L. 92–158, §§ 9, 13, substituted "nineteen members" for "sixteen members", and "Three of the appointed members shall be selected from full-time students enrolled in schools of nursing, four" for "Four", added "The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council." and substituted "Secretary (or his delegate)" for "Surgeon General".

Subsec. (a)(2). Pub. L. 92–158, § 13, substituted "Secretary (or his delegate)" for "Surgeon General".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

§ 298a. Noninterference with administration of institutions.

Section 842, of act July 1, 1944, c. 373, was redesignated 852 by Pub. L. 94–63, title IX, 941(k)(1), July 29, 1975, 89 Stat. 366.

§ 298b. Definitions.

For the purposes of this subchapter—

(1) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(2) The term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(3) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college, or university is accredited.

(4) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college or university is accredited.

(5) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(6) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State Agency, approved for such purpose by the Commissioner of Education, and when applied to a hospital, school, college, or university (or unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education, except that a program, or a hospital, school, college, or university (or a unit thereof), which is not, at the time of the application under this subchapter, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this subchapter in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program, or the hospital, school, college, or university (or unit thereof), will meet the accreditation standards of such body or bodies (A) in the case of an applicant under subpart I of part A of this subchapter for a grant for a project for construction of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (i) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (ii) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (B) in the case of a school applying for a grant under section 296e of this title for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one); and (C) in the case of a school seeking an agreement under section 297a of this title for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under section 297a of this title; except that the provisions of this clause (3) shall not apply for the purposes of section 297d of this title. For the purpose of this paragraph, the Commissioner of Education shall publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to the quality of training offered.

(7) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(8) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(9) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered. For the purposes of this paragraph, the term "buildings" includes interim facilities.

(10) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed. (July 1, 1944, ch. 373, title VIII, § 853, formerly § 843, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 918, and amended Oct. 22, 1965, Pub. L. 89–290, § 5(b), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90–490, title II, §§ 203, 204, 213, 231, 82 Stat. 780, 783, 787; Nov. 18, 1971, Pub. L. 92–158, § 2(d)(1), (2), 85 Stat. 467, 468; renumbered and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(k)(1), (3), 89 Stat. 366, 367.)

AMENDMENTS

1975—Subsecs. (1)–(5). Pub. L. 94–63, § 941(k)(3)(E), redesignated former subsecs. (a) to (e) as (1) to (5), respectively.

Subsec. (6). Pub. L. 94–63, § 941(k)(3)(A)–(G), redesignated former subsec. (f) as (6) and, as so redesignated, added "subpart I of" following "the case of an applicant under", redesignated cls. (1) to (3) as (A) to (C) and subcls. (A) and (B) as (i) and (ii), substituted "section 297a of this title" for "part B of this subchapter" wherever appearing therein, and substituted references to sections 810 and 838 of the Act for references to sec-

tions 806 and 825, which had previously been translated as sections 296e and 297d of this title, respectively, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsecs. (7), (8). Pub. L. 94–63, § 941(k)(3)(E), redesignated former subsecs. (g) and (h) as (7) and (8), respectively.

Subsec. (9). Pub. L. 94–63, § 941(k)(3)(E), (H), redesignated former subsec. (i) as (9) and, as so redesignated, substituted "(A)" for "(1)" and "(B)" for "(2)".

Subsec. (10). Pub. L. 94–63, § 941(k)(3)(E), redesignated former subsec. (j) as (10).

1971—Subsec. (i). Pub. L. 92–158, § 2(d)(1), defined the term "buildings" as including interim facilities.

Subsec. (j). Pub. L. 92–158, § 2(d)(2), added subsec. (j).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1132e–1.

§ 298b–1. Advance funding.

Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this subchapter may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated. (July 1, 1944, ch. 373, title VIII, § 854, formerly § 844, as added Nov. 18, 1971, Pub. L. 92–158, § 10, 85 Stat. 479, and renumbered July 29, 1975, Pub. L. 94–63, title IX, § 941(k)(1), 89 Stat. 366.)

§ 298b–2. Prohibition against discrimination by schools on the basis of sex.

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of nursing unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any school unless the school furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. (July 1, 1944, ch. 373, title VII, § 855, formerly § 845, as added Nov. 18, 1971, Pub. L. 92–158, § 11, 85 Stat. 479, and renumbered July 29, 1975, Pub. L. 94–63, title IX, § 941(k)(1), 89 Stat. 366.)

§ 298b–3. Delegation of authority to administer programs; exceptions.

The Secretary may delegate the authority to administer any program authorized by this subchapter to the administrator of a central or regional office or offices in the Department of Health, Education, and Welfare, except that the authority—

(1) to review, and prepare comments on the merit of, any application for a grant or contract under any program authorized by this subchapter for purposes of presenting such application to the National Advisory Council on Nurse Training, or

(2) to make such a grant or enter into such a contract,

shall not be further delegated to any administrator of, or officer in, any regional office or offices in the Department. (July 1, 1944, ch. 373, title VIII, § 856, as added July 29, 1975, Pub. L. 94–63, title IX, § 941(k)(4), 89 Stat. 367.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

PART D.—SCHOLARSHIP GRANTS TO SCHOOLS OF NURSING

§§ 298c, 298c–1. Transferred.

Provisions of section 298c and 298c–1 of this title have been transferred to sections 297j and 297k of this title, respectively, pursuant to reorganization and amendment of this subchapter by Pub. L. 94–63.

§ 298c–7. Repealed. Pub. L. 94–63, title IX, § 931(b), July 29, 1975, 89 Stat. 362.

Section, act July 1, 1944, ch. 373, title VIII, § 868, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1239, and amended Nov. 18, 1971, Pub. L. 92–158, § 8, 85 Stat. 478; July 29, 1975, Pub. L. 94–63, title IX, § 902(g), 89 Stat. 355, authorized grants and contracts to encourage full utilization of educational talent for nursing profession and authorized appropriations from fiscal year ending June 30, 1972 through fiscal year ending June 30, 1975 for implementation.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 296 of this title.

§ 298c–8. Repealed. Pub. L. 94–63, title IX, § 941(j)(4), July 29, 1975, 89 Stat 366.

Section, act, July 1, 1944, ch. 373, title VIII, § 869, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1240, defined the term "academic year".

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 296a of this title.

SUBCHAPTER VII.—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 236, 300*l*, 300*l*–3, 300*l*–4 of this title; title 38 section 5070.

§ 299a. Authorization of appropriations.

(a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1966, $90,000,000 for the fiscal year ending June 30, 1967, $200,000,000 for the fiscal year ending June 30, 1968, $65,000,000 for the fiscal year ending June 30, 1969, $120,000,000 for the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1971, $150,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, and $159,000,000 for the fiscal year ending June 30, 1974, for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and

demonstration activities for carrying out the purposes of this subchapter and for contracts to carry out the purposes of this subchapter. Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than $5,000,000 may be made available in any such year for grants for new construction.

* * * * *

(As amended June 18, 1973, Pub. L. 93–45, title I, § 110, 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45 authorized appropriations of $159,000,000 for fiscal year ending June 30, 1974.

§ 299b. Definitions.

REGIONAL MEDICAL PROGRAM

A reference in any law or regulation to a regional medical program assisted under this subchapter shall be considered as a reference to a State health planning development agency, if the program is located in a State for which such an agency has been designated under section 300m of this title, see sction 5(c)(3) of Pub. L. 93–641, set out as a note under section 300m of this title.

SUBCHAPTER VIII.—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

§ 300. Project grants and contracts for family planning services.

(a) Authority of Secretary.

The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods (including natural family planning methods).

(b) Factors determining awards; establishment and preservation of rights of local and regional entities.

In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) Authorization of appropriations.

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973, $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; and $115,000,000 for fiscal year 1977. (As amended Sept. 30, 1972, Pub. L. 92–449, title III, § 301, 86 Stat. 754; June 18, 1973, Pub. L. 93–45, title I, § 111(a), 87 Stat. 93; July 29, 1975, Pub. L. 94–63, title II, §§ 202(a), 204(a), (b), title VII, § 701(d), 89 Stat. 306–308, 352.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 204(a) added provision relating to scope of family planning projects to be offered.

Subsec. (b). Pub. L. 94–63, § 204(b), added provision relating to direct grants and contracts for local and regional entities.

Subsec. (c). Pub. L. 94–63, §§ 202(a), 701(d), authorized appropriations of $111,500,000 for the fiscal year ending June 30, 1975, and $115,000,000 for fiscal years 1976 and 1977.

1973—Subsec. (c). Pub. L. 93–45 authorized appropriations of $111,500,000 for fiscal year ending June 30, 1974.

1972—Subsec. (c). Pub. L. 92–449 increased appropriations authorization for fiscal year ending June 30, 1973, to $111,500,000 from $90,000,000.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by sections 202(a), 204(a) and 204(b) of Pub. L. 94–63, adding provisions relating to planning projects, direct grants and contracts, and appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SHORT TITLE

Section 201 of Pub. L. 94–63 provided that: "This title [adding sections 300a–6a and 300a–8 of this title, amending this section and sections 300a–1 to 300a–4 of this title, and repealing section 3505c of this title] may be cited as the 'Family Planning and Population Research Act of 1975'."

§ 300a–1. Training grants and contracts; authorization of appropriations.

* * * * *

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $3,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; $4,000,000 for fiscal year ending 1976; and $5,000,000 for fiscal year 1977. (As amended June 18, 1973, Pub. L. 93–45, title I, § 111 (b), 87 Stat. 93; July 29, 1975, Pub. L. 94–63, title II, § 202(b), title VII, § 701(d), 306, 352.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–63 authorized appropriations of $3,000,000 for the fiscal year ending June 30, 1975, $4,000,000 for fiscal year 1976 and $5,000,000 for fiscal year 1977.

1973—Subsec. (b). Pub. L. 93–45 authorized appropriations of $3,000,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(b) of Pub. L. 94–63, authorizing appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300a–2. Research activities, grants and contracts; authorization of appropriations; availability of appropriated funds.

(a) The Secretary may—

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for, research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

(b)(1) To carry out subsection (a) of this section there are authorized to be appropriated $55,000,000

for fiscal year 1976, and $60,000,000 for fiscal year 1977.

(2) No funds appropriated under any provision of this chapter (other than this subsection) may be used to conduct or support the research described in subsection (a). (As amended July 29, 1975, Pub. L. 94–63, title II, § 202(c), title VII, § 701(d), 89 Stat. 306, 352.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 202(c), revised structure of provisions and, as so revised, added authorization for Secretary to conduct research and struck out authority for grants and contracts in research training in the specified fields.

Subsec. (b). Pub. L. 94–63, §§ 202(c), 701(d), revised structure of provisions and, as so revised, substituted provisions relating to authorization of appropriations for fiscal years 1976 and 1977 and availability of appropriated funds, for provisions authorizing appropriations for fiscal years ending June 30, 1971 through the fiscal year ending June 30, 1975.

1973—Subsec. (b). Pub. L. 93–45 authorized appropriations of $2,615,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(c) of Pub. L. 94–63, generally revising provisions, effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300a–3. Informational and educational materials development grants and contracts; authorization of appropriations.

* * * * *

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; and $2,500,000 for fiscal year 1977. (As amended June 18, 1973, Pub. L. 93–45, title I, § 111(d), 87 Stat. 93; July 29, 1975, Pub. L. 94–63, title II, § 202(d), title VII, § 701(d), 89 Stat. 307, 352.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–63 authorized appropriations of $909,000 for the fiscal year ending June 30, 1975, $2,000,000 for fiscal year 1976 and $2,500,000 for fiscal year 1977.

1973—Subsec. (b). Pub. L. 93–45 authorized appropriations of $909,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(d) of Pub. L. 94–63, authorizing appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300a–4. Grants and contracts.

(a) Promulgation of regulations governing execution; amount of grants.

Grants and contracts made under this subchapter shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this subchapter shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

* * * * *

(c) Prerequisites; definition.

A grant may be made or contract entered into under section 300 or 300a of this title for a family planning service project or program only upon assurances satisfactory to the Secretary that—

* * * * *

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this subchapter. (As amended July 29, 1975, Pub. L. 94–63, title II, § 204(c), (d), 89 Stat. 308.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 204(c), added provisions relating to amount of grants authorized pursuant to sections of this subchapter.

Subsec. (c). Pub. L. 94–63, § 204(d), added provision relating to economic status as part of the criteria to be included within the definition of "low-income family".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300a–6a. Plans and reports.

(a) Submission of report to Congress; purposes of plan.

Not later than seven months after the close of each fiscal year, the Secretary shall make a report to the Congress setting forth a plan to be carried out over the next five fiscal years for—

(1) extension of family planning services to all persons desiring such services,

(2) family planning and population research programs,

(3) training of necessary manpower for the programs authorized by this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning, and

(4) carrying out the other purposes set forth in this subchapter and the Family Planning Services and Population Research Act of 1970.

(b) Minimum requirements for plan.

Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under this subchapter and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet the purposes of this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning programs; and

(3) the steps to be taken to maintain a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) Contents of report.

Each report submitted under subsection (a) of this section shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan contained in the previous such report;

(2) indicate steps being taken to achieve the objectives during the fiscal years covered by the plan contained in such report and any revisions to plans in previous reports necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan contained in such report.

(July 1, 1944, ch. 373, title X, § 1009, as added July 29, 1975, Pub. L. 94–63, title II, § 203(a), 89 Stat. 307.)

REFERENCES IN TEXT

The Family Planning Services and Population Research Act of 1970, referred to in subsec. (a), is Pub. L. 91–572, Dec. 24, 1970, 84 Stat. 1504. For distribution in the Code, see Short Title note set out under section 300 of this title.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300a–7. Sterilization or abortion.

(a) Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions.

The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedures or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

(b) Discrimination prohibition.

(1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act after June 18, 1973, may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health, Education, and Welfare may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting any such service or activity.

(c) Individual rights respecting certain requirements contrary to religious beliefs or moral convictions.

No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health, Education, and Welfare if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions. (Pub. L. 93–45, title IV, § 401(b)–(d), June 18, 1973, 87 Stat. 95, amended Pub. L. 93–348, title II, § 214, July 12, 1974, 88 Stat. 353.)

REFERENCES IN TEXT

Public Health Service Act, referred to in introductory text of subsecs. (a) and (b), is classified to this chapter.

Community Mental Health Centers Act, referred to in introductory text of subsecs. (a) and (b), is classified to section 2681 et seq. of this title.

Developmental Disabilities Services and Facilities Construction Act, referred to in introductory text of subsecs. (a) and (b), is classified to sections 295 to 295e–5 and 2661 et seq. of this title.

CODIFICATION

Section was enacted as part of Health Programs Extension Act of 1973, and not as part of Public Health Services Act, which is classified to this chapter.

Provisions, which is the original constituted subsecs. (b) and (c) of section 401 of Pub. L. 93-45, were redesignated (a) and (b) for purposes of the Code.

Provisions which in the original constituted subsec. (d) of section 401 of Pub. L. 93-45, as added by section 214(b) of Pub. L. 93-348, were redesignated (c) for purposes of this Code.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-348, § 214(a)(1)-(3), designated existing provisions as par. (1), redesignated pars. (1) and (2) of such provisions as subpars. (A) and (B), and added par. (2), respectively.

Subsec. (c). Pub. L. 93-348, § 214(b), added subsec. (c).

§ 300a-8. Same; penalty for United States, etc., officer or employee coercing or endeavoring to coerce procedure upon beneficiary of Federal program.

Any—

(1) officer or employee of the United States,

(2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or

(3) person who receives, under any program receiving Federal financial assistance, compensation for services,

who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program reeciving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (Pub. L. 94-63, title II, § 205, July 29, 1975, 89 Stat. 308.)

CODIFICATION

Section was enacted as part of the Family Planning and Population Research Act of 1975, and not as part of the Public Health Service Act, which is classified to this chapter.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as a note under section 247b of this title.

SUBCHAPTER IX.—GENETIC BLOOD DISORDERS AND SUDDEN INFANT DEATH SYNDROME [NEW]

PART A.—SICKLE CELL ANEMIA PROGRAMS

AMENDMENTS

1974—Pub. L. 93-270, § 3(b), Apr. 22, 1974, 88 Stat. 92, included reference to Sudden Infant Death Syndrome in subchapter heading.

1972—Pub. L. 92-414, § 4(1), Aug. 29, 1972, 86 Stat. 652, substituted "Genetic Blood Disorders" for "Sickle Cell Anemia Program" as subchapter heading and designated former subchapter heading as Part A, substituting "Programs" for "Program".

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 300n-1 of this title.

§ 300b. Sickle cell anemia screening and counseling programs and information and education programs.

(a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs, primarily through other existing health programs.

(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975. (July 1, 1944, ch. 373, title XI, § 1101, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 137, and amended Aug. 29, 1972, Pub. L. 92-414, § 4(2), 86 Stat. 652.)

AMENDMENTS

1972—Subsec. (a)(3). Pub. L. 92-414 struck out par. (3) requirements, in making grants or contracts, that consideration be given to number of persons to be served by the programs and extent of rapid and effective use of funds for the programs and that priority be given to programs in areas with greatest number of persons in need of the services provided by the programs.

SHORT TITLE

Section 1 of Pub. L. 92-294 provided that: "This Act [which enacted this subchapter and provisions set out as notes under this section, and amended provisions set out as notes under section 201 of this title] shall be cited as the 'National Sickle Cell Anemia Control Act'."

CONGRESSIONAL DECLARATION OF PURPOSE

Section 2 of Pub. L. 92-294 provided that:

"(a) The Congress finds and declares

"(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

"(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait.

"(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

"(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

"(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

"(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highests priority.

"(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act [see Short Title note set out hereunder] to establish a national program for the diagnosis, control, and treatment of, and research in, sickle cell anemia."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300b-3 of this title.

§ 300b-1. Project grants and contracts; authorization of appropriations.

(a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research and research training in the diagnosis, treatment, and control of

sickle cell anemia, (2) the development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and (3) the development of sickle cell anemia counseling and testing programs and other programs for diagnosis, control, and treatment of sickle cell anemia.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975. (July 1, 1944, ch. 373, title XI, § 1102, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138.)

§ 300b–2. Voluntary participation by individuals; participation not prerequisite for eligibility or receipt of other services and assistance.

The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program. (July 1, 1944, ch. 373, title XI, § 1103, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138, and amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652.)

AMENDMENTS

1972—Pub. L. 92–414 substituted "part" for "subchapter".

§ 300b–3. Applications; administration of grant and contract programs.

(a) A grant under this part may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this part;

(4) in the case of an application for a grant under section 300b(a)(1) of this title, provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their child-producing years, and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part, and

(6) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(b) In making any grant or contract under this part the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs. (July 1, 1944, ch. 373, title XI, § 1104, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138, and amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652.)

AMENDMENTS

1972—Pub. L. 92–414 substituted "part" for "subchapter" wherever appearing in subsec. (a), opening provisions, subsec. (a)(1), (3), (5) and subsec. (b).

§ 300b–4. Extension of Public Health Service facilities.

The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs. (July 1, 1944, ch. 373, title XI, § 1105, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 139.)

§ 300b–5. Annual report to President and Congress.

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary. (July 1, 1944, ch. 373, title XI, § 1106, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 139, and amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–414 substituted "part" for "subchapter".

PART B.—COOLEY'S ANEMIA PROGRAMS

§ 300c. Cooley's anemia screening, treatment, and counseling research, and information and education programs; authorization of appropriations.

(a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Cooley's anemia screening, treatment, and counseling programs.

(2) The Secretary may make grants to public and nonprofit private entities, and may enter into con-

tracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia, including projects for the development of effective and inexpensive tests which will identify those who have the disease or carry the trait.

(3) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1) of this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2) of this section, there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(3) For the purpose of carrying out subsection (a)(3) of this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years. (July 1, 1944, ch. 373, title XI, § 1111, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 650.)

SHORT TITLE

Section 1 of Pub. L. 92–414 provided that: "This Act [which enacted this part, amended sections 300b, 300b–2, 300b–3, and 300b–5 of this title and enacted provisions set out as a note under this section] may be cited as the 'National Cooley's Anemia Control Act'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 92–414 provided that:

"(a) The Congress finds and declares—

"(1) that Cooley's anemia is a debilitating, inheritable disease that afflicts thousands of American citizens and has been largely neglected;

"(2) that efforts to prevent Cooley's anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the trait;

"(3) that programs to prevent Cooley's anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

"(4) that the attainment of better methods of prevention, diagnosis, and treatment of Cooley's anemia deserves the highest priority.

"(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, Cooley's anemia."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300c–2 of this title.

§ 300c–1. Voluntary participation by individuals; participation not prerequisite for eligibility or receipt of other services and assistance.

The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program. (July 1, 1944, ch. 373, title XI, § 1112, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 651.)

§ 300c–2. Applications; administration of grant and contract programs.

(a) A grant under this part may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each application shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this part;

(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(b)(1) In making any grant or contract under this subchapter, the Secretary shall (A) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (B) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

(2) The Secretary may make a grant under section 300c(a)(1) of this title for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective and inexpensive Cooley's anemia screening test. (July 1, 1944, ch. 373, title XI, § 1113, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 651.)

§ 300c–3. Extension of Public Health Service facilities.

The Secretary shall establish a program within the Public Health Service to provide for voluntary Cooley's anemia screening, counseling, and treatment. Such program shall utilize effective and inexpensive Cooley's anemia screening tests, shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs. (July 1, 1944, ch. 373, title XI, § 1114, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 652.)

§ 300c–4. Annual report to President and Congress.

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary. (July 1, 1944, ch. 373, title XI, § 1115, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 652.)

PART C.—SUDDEN INFANT DEATH SYNDROME

§ 300c–11. Sudden infant death syndrome counseling, information, educational, and statistical programs.

(a) Statement of purpose.

The Secretary, through the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, to public safety officials, and to the public generally.

(b) Grants and contracts for projects; applications: approval by Secretary, form, contents; payments: advances or reimbursement, intervals, and conditions; provisions of section 529 of Title 31 and section 5 of Title 41 inapplicable to contracts; authorization of appropriations.

(1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

(B) the provision of information and counseling to families affected by sudden infant death syndrome.

(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. Each application shall—

(A) provide that the project for which assistance under this subsection is sought will be administered by or under supervision of the applicant;

(B) provide for appropriate community representation in the development and operation of such project;

(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(D) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(4) Contracts under this subsection may be entered into without regard to section 529 of Title 31 and section 5 of Title 41.

(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $4,000,000 for the fiscal year ending June 30, 1977.

(c) Report to Congressional committees.

The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it. (July 1, 1944, ch. 373, title XI, § 1121, as added Apr. 22, 1974, Pub. L. 93–270, § 3(a) 88 Stat. 91.)

SHORT TITLE

Section 1 of Pub. L. 93–270 provided that: "This Act [which enacted this part, amended sections 289d and 289g of this title, and enacted provisions set out as a note under section 289g of this title] may be cited as the 'Sudden Infant Death Syndrome Act of 1974'."

PART D.—HEMOPHILIA PROGRAMS

§ 300c–21. Comprehensive hemophilia diagnostic and treatment centers.

(a) Grants and contracts with public and nonprofit private entities for projects for establishment; services required to be provided by centers.

The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. A center established under this subsection shall provide—

(1) access to the services of the center for all individuals suffering from hemophilia who reside within the geographic area served by the center;

(2) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

(3) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

(4) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but who are more conveniently (as determined by the Secretary) served by it than by the next geographically closest center;

(5) programs of social and vocational counseling for individuals suffering from the hemophilia; and

(6) individualized written comprehensive care programs for each individual treated by or in association with such center.

(b) Approval of application as prerequisite for grant or contract; form, manner of submission and contents of application.

No grant or contract may be made under subsection (a) [of this section] unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Required assurances of application.

An application for a grant or contract under subsection (a) of this section shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its

available and potential resources will enable it to effectively serve.

(d) Criteria for approval of application.

In considering applications for grants and contracts under subsection (a) of this section for projects to establish hemophilia diagnostic and treatment centers, the Secretary shall—

(1) take into account the number of persons to be served by the programs to be supported by such centers and the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts, and

(2) give priority to projects for centers which will operate in areas which the Secretary determines have the greatest number of persons in need of the services provided by such centers.

(e) Nonapplicability of statutory provisions to contracts.

Contracts may be entered into under subsection (a) of this section without regard to section 529 of Title 31 and section 5 of Title 41.

(f) Authorization of appropriations.

There are authorized to be appropriated to make payments under grants and contracts under subsection (a) of this section $3,000,000 for fiscal year 1976, and $4,000,000 for fiscal year 1977. (July 1, 1944, ch. 373, title XI, § 1131, as added July 29, 1975, Pub. L. 94–63, title VI, § 606, 89 Stat. 350.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 300c–22. Blood-separation centers.

(a) Grants and contracts with public and nonprofit private entities for projects to develop and expand existing facilities; definitions.

The Secretary may make grants to enter into contracts with public and nonprofit private entities for projects to develop and expand, within existing facilities, blood-separation centers to separate and make available for distribution blood components to providers of blood services and manufacturers of blood fractions. For purposes of this section—

(1) the term "blood components" means those constituents of whole blood which are used for therapy and which are obtained by physical separation processes which result in licensed products such as red blood cells, platelets, white blood cells, AHF-rich plasma, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion; and

(2) the term "blood fractions" means those constituents of plasma which are used for therapy and which are obtained by licensed fractionation processes presently used in manufacturing which result in licensed products such as normal serum albumin, plasma, protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin, and hyperimmune globulins.

(b) Grants for alleviation of insufficient supplies of blood fractions.

In the event the Secretary finds that there is an insufficient supply of blood fractions available to meet the needs for treatment of persons suffering from hemophilia, and that public and other nonprofit private centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this subsection, he may make grants not to exceed $500,000 to such centers for the purposes of alleviating the insufficiency.

(c) Approval of application as prerequisite for grant or contract; form, manner of submission, and contents of application.

No grant or contract may be made under subsection (a) or (b) of this section unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(d) Nonapplicability of statutory provisions to contracts.

Contracts may be entered into under subsection (a) of this section without regard to section 529 of Title 31 and section 5 of Title 41.

(e) Authorization of appropriations.

For the purpose of making payments under grants and contracts under subsections (a) and (b) of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977. (July 1, 1944, ch. 373, title XI, § 1132, as added July 29, 1975, Pub. L. 94–63, title VI, § 606, 89 Stat. 351.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SUBCHAPTER X.—EMERGENCY MEDICAL SERVICES SYSTEMS [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 295f–2, 295f–6 of this title.

§ 300d. Definitions.

For purposes of this subchapter:

(1) The term "emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) The term "modernization" means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof, and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(4) The term "section 314(a) State health planning agency" means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a).

(5) The term "section 314(b) areawide health planning agency" means a public or nonprofit

private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and the term "section 314(b) plan" means a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b).

(July 1, 1944, ch. 373, title XII, § 1201, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 594.)

REFERENCES IN TEXT

References to section 314(a) and 314(b) in subds. (4) and (5), are references to subsecs. (a) and (b) of section 314 of act July 1, 1944, ch. 373 (the Public Health Service Act), as amended, which is classified to section 246 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–154 provided that: "This Act [which enacted this subchapter and sections 295f–2(a)(14) and 295f–6 of this title, amended section 295f–4(a)(1)(D) of this title, and enacted provisions set out as a note under this section] may be cited as the 'Emergency Medical Services Systems Act of 1973'."

STUDY OF LEGAL BARRIERS TO DELIVERY OF EMERGENCY MEDICAL SERVICES; UNIFORM CONFLICT OF LAWS FOR SUCH SERVICES IN COURSE OF INTERSTATE TRAVELS ON COMMON CARRIERS; REPORT TO CONGRESS

Section 4 of Pub. L. 93–154 provided that: "The Secretary of Health, Education, and Welfare shall conduct a study to determine the legal barriers to the effective delivery of medical care under emergency conditions. The study shall include consideration of the need for a uniform conflict of laws rule prescribing the law applicable of the provision of emergency medical services to persons in the course of travels on interstate common carriers. Within twelve months of the date of the enactment of this Act [Nov. 16, 1973], the Secretary shall report to the Congress the results of such study and recommendations for such legislation as may be necessary to overcome such barriers and provide such rule."

§ 300d–1. Grants and contracts for feasibility studies and planning.

(a) Authority of Secretary; eligible entities.

The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d–5(a) of this title) for projects which include (1) studying the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical services system, and (2) planning the establishment and operation of such a system.

(b) Geographical area; limitation.

If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under this section for such project, and he may not make a grant or enter into a contract under this section for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

(c) Reports to Secretary and Interagency Committee.

Reports of the results of any study and planning projects assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and a final report of such results shall be submitted to the Secretary and such Committee not later than one year from the date the grant was made or the contract entered into, as the case may be.

(d) Application requirements.

An application for a grant or contract under this section shall—

(1) demonstrate to the satisfaction of the Secretary the need of the area for which the study and planning will be done for an emergency medical services system;

(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

(e) Amount of grant; determination by Secretary.

The amount of any grant under this section shall be determined by the Secretary. (July 1, 1944, ch. 373, title XII, § 1202, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 595.)

CROSS REFERENCES

Section 314(b) areawide health planning agency and section 314(b) plan defined, see section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–5, 300d–6 of this title.

§ 300d–2. Grants and contracts for establishing and initial operation of emergency medical services system.

(a) Authority of Secretary; eligible entities.

The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d–5(a) of this title) for the establishment and initial operation of emergency medical services systems.

(b) Coordination with statewide system.

Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services system.

(c) Modernization of emergency facilities; additional grant or contract; limitations; eligible entities, costs; rural area system, financial assistance.

(1) Grants and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first nine months' activities of the applicant carried out under the first grant or con-

tract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in his application (pursuant to section 300d–5(b)(4) of this title) for the first grant or contract.

(3) No grant or contract may be made under this section for the fiscal year ending June 30, 1976, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

(4) Subject to section 300d–5(f) of this title—

(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary). (July 1, 1944, ch. 373, title XII, § 1203, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 596.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–5 to 300d–8 of this title.

§ 300d–3. Grants and contracts for expansion and improvements.

(a) Authority of Secretary; eligible entities.

The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d–5(a) of this title) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

(b) Cost limitation.

Subject to section 300d–5(f) of this title, the amount of any grant or contract under this section for a project shall not exceed (i) 50 per centum of the cost of that project (as determined pursuant to regulations of the Secretary), or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs. (July 1, 1944, ch. 373, title XII, § 1204, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 597.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–5 to 300d–8 of the title.

§ 300d–4. Grants and contracts for research.

(a) Authority of Secretary; eligible entities; special consideration for rural area systems.

The Secretary may make grants to public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery. The Secretary shall give special consideration to applications for grants or contracts for research relating to the delivery of emergency medical services in rural areas.

(b) Cost limitation; application requirements.

No grant may be made or contract entered into under this section for amounts in excess of $35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any application for a grant or contract under this section shall be submitted in such form and manner, and contains such information, as the Secretary shall prescribe in regulations.

(c) Reports to the Secretary.

The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require. (July 1, 1944, ch. 373, title XII, § 1204, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 597.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d–6 of this title.

§ 300d–5. General provisions respecting grants and contracts.

(a) Eligible entity defined.

For purposes of sections 300d–1, 300d–2, and 300d–3 of this title, the term "eligible entity" means—

(1) a State,

(2) a unit of general local government,

(3) a public entity administering a compact or other regional arrangement or consortium, or

(4) any other public entity and any nonprofit private entity.

(b) Applications for grants or contracts; submission; approval by Secretary; approval requirements; prohibitions; grants or contract period; alternate plans, submission; emergency medical services system requirements, standards and criteria; technical assistance.

(1) No grant or contract may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

(2) In considering applications submitted under this subchapter, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a) of this section.

(3) No application for a grant or contract under section 300d–2 of this title may be approved unless—

(A) the application meets the application requirements of such section;

(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as

determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

(C) in the case of an application submitted by an entity described in clause (4) of subsection (a) of this section, such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

(D) the—

(i) section 314(a) State health planning agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

(ii) section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the service area of such system,

have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this subchapter; and

(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restrict the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

(4)(A) An application for a grant or contract under section 300d–2 or 300d–3 of this title may not be approved by the Secretary unless (i) the application meets the requirements of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B)(ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B)(i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

(B)(i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (A) is the period of the grant or contract for which application is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

(ii) If an applicant submits an application for a grant or contract under section 300d–2 or 300d–3 of this title and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements) and the applicant shall provide in his application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

(C) An emergency medical services system shall—

(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

(iii) join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizes emergency medical telephonic screening, (II) utilizes or, within such period as the Secretary prescribes will utilize, the universal emergency telephone number 911, and (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems;

(iv) include an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's service area—

(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable for providing services on a continuous basis, which have appropriate nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provide access to such units in neigh-

boring areas if access to such units is feasible in terms of time and distance;

(vii) provide for the effective utilization of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the system's service area;

(viii) be organized in a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

(xi) provide for a standardized patient record-keeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

(xii) provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of information regarding appropriate methods of medical self-help and first-aid and regarding the availability of first-aid training programs in the area;

(xiii) to provide for (I) periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency health care services provided in the system's service area, and (II) submission to the Secretary of the reports of each such review and evaluation;

(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similiar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescribed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

(5) The Secretary shall provide technical assistance, as appropriate, to eligible entities as necessary for the purpose of their preparing applications or otherwise qualifying for or carrying out grants or contracts under sections 300d–1, 300d–2, or 300d–3 of this title, with special consideration for applicants in rural areas.

(c) Payments; advances or reimbursement; installments; conditions.

Payments under grants and contracts under this subchapter may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this subchapter.

(d) Prohibitions and restrictions inapplicable.

Contracts may be entered into under this subchapter without regard to section 529 of Title 31 and section 5 of Title 41.

(e) New grants or contracts; use of funds; definition.

No funds appropriated under any provision of this chapter other than section 300d–6 of this title or subchapter V of this chapter may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this subchapter unless (1) all the funds authorized to be appropriated by section 300d–6 of this title for such fiscal year, have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance with the requirements of this subchapter that would be applicable to such grant or contract if it was made under this subchapter. For purposes of this subsection, the term "new grant or contract" means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 300d–6 of this title.

(f) Amount of grant or contract; considerations; conditions for use of funds.

(1) In determining the amount of any grant or contract under section 300d–2 or 300d–3 of this title, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this chapter for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds under a grant or contract under sections 300d–2 and 300d–3 of this title.

(2) The Secretary may not authorize the recipient of a grant or contract under section 300d–2 or 300d–3 of this title to use funds under such grant or contract for any training program in connection with an emergency medical services system unless the applicant filed an application (as appropriate) under subchapter V or VI of this chapter for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such subchapter. (July 1, 1944, ch. 373, title XII, § 1206, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 598.)

CROSS REFERENCES

Section 314(a) State health planning agency, section 314(b) areawide health planning agency, and section 314 (b) plan defined, see section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–1 to 300d–3 of this title.

§ 300d–6. Authorization of appropriations.

(a) (1) For the purpose of making payments pursuant to grants and contracts under sections 300d–1, 300d–2, and 300d–3 of this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975; and for the purpose of making payments pursuant to grants and contracts under sections 300d–2 and 300d–3 of this title for the fiscal year ending June 30, 1976, there are authorized to be appropriated $70,000,000.

(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 20 per centum shall be made available for grants and contracts under this subchapter for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 300d–2 (c) (5) of this title).

(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d–1 of this title (relating to feasibility studies and planning) for such fiscal year;

(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d–2 of this title (relating to establishment and initial operation) for such fiscal year; and

(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d–3 of this title (relating to expansion and improvement) for such fiscal year.

(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

(A) 75 per centum of such sums shall be made available only for grants and contracts under section 300d–2 of this title for such fiscal year, and

(B) 25 per centum of such sums shall be made available only for grants and contracts under section 300d–3 of this title for such fiscal year.

(b) For the purpose of making payments pursuant to grants and contracts under section 300d–4 of this title (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next two fiscal years. (July 1, 1944, ch. 373, title XII, § 1207, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d–5 of this title.

§ 300d–7. Administration.

The Secretary shall administer the program of grants and contracts authorized by this subchapter through an identifiable administrative unit within the Department of Health, Education, and Welfare. Such unit shall also be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under section 300d–2 or 300d–3 of this title. (July 1, 1944, ch. 373, title XII, § 1208, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602.)

§ 300d–8. Interagency Committee on Emergency Medical Services.

(a) Establishment; functions.

The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and shall make recommendations to the Secretary respecting the administration of the program of grants and contracts under this subchapter (including the making of regulations for such program).

(b) Chairman of Committee; membership representative of Federal agencies and offices and general public; meetings.

The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, the National Academy of Sciences, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(c) Term of office; vacancies; service after expiration of term.

Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(d) Compensation and travel expenses.

Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of

the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(e) Staff, information, and other assistance.

The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 300d–2 or 300d–3 of this title), and other assistance as it may require to carry out its activities effectively. (July 1, 1944, ch. 373, title XII, § 1209, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out under section 5332 of Title 5, Government Organization and Employees.

§ 300d–9. Annual report to Congress.

The Secretary shall prepare and submit annually to the Congress a report on the administration of this subchapter. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the report, and evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this subchapter, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974. (July 1, 1944, ch. 373, title XII, § 1210, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 603.)

SUBCHAPTER XI.—HEALTH MAINTENANCE ORGANIZATIONS [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 300n–1 of this title; title 12 section 1721.

§ 300e. Requirements of health maintenance organizations.

(a) Definition of health maintenance organization.

For purposes of this subchapter, the term "health maintenance organization" means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b) of this section, and (2) is organized and operated in the manner prescribed by subsection (c) of this section.

(b) Manner of supplying basic and supplemental health services to members.

A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this subchapter, basic and supplemental health services to its members in the following manner:

(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary.

(2) For such payment or payments (hereinafter in this subchapter referred to as "supplemental health services payments") as the health maintenance organization may require in addition to the basic health services payment, the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 300e–1 (2) of this title), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization. Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system.

(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization, or through a medical group (or groups) or individual practice association (or associations), except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. For purposes of this paragraph, the term "health professionals" means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

(4) Basic health services (and supplemental health services in the case of the members who have contracted therefor) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

(c) Organization, practices, and activities.

Each health maintenance organization shall—

(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

(4) have an open enrollment period of not less than thirty days at least once during each consecutive twelve-month period during which enrollment period it accepts, up to its capacity, individuals in the order in which they apply for enrollment, except that if the organization demonstrates to the satisfaction of the Secretary that—

(A) it has enrolled, or will be compelled to enroll, a disproportionate number of individuals who are likely to utilize its services more often than an actuarially determined average (as determined under regulations of the Secretary) and enrollment during an open enrollment period of an additional number of such individuals will jeopardize its economic viability, or

(B) if it maintained an open enrollment period it would not be able to comply with the requirements of paragraph (3),

the Secretary may waive compliance by the organization with the open enrollment requirement of this paragraph for not more than three consecutive twelve-month periods and may provide additional waivers to that organization if it makes the demonstration required by subparagraph (A) or (B);

(5) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

(6) be organized in such a manner that assures that (A) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (B) there will be equitable representation on such body of members from medically underserved populations served by the organization;

(7) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

(8) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians and other health professionals of the process followed in the provision of health services;

(9) provide medical social services for its members and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health;

(10) provide, or make arrangements for, continuing education for its health professional staff; and

(11) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

(July 1, 1944, ch. 373, title XIII, § 1301, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 914.)

SHORT TITLE

Section 1 of Pub. L. 93–222 provided in part that Pub. L. 93–222 [which enacted this subchapter and section 280c of this title, amended section 172 of Title 12, Bank and Banking, and sections 201 note and 2001 of this title, repealed section 763c of Title 33, Navigation and Navigable Waters, and sections 201 notes, 211a, 212a, and 222 notes of this section, and enacted provisions set out as notes under this section and section 300e–1 of this title] shall be cited as the "Health Maintenance Organization Act of 1973."

HEALTH CARE QUALITY ASSURANCE PROGRAMS STUDY

Section 4 of Pub. L. 93–222 provided that:

"(a) The Secretary of Health, Education, and Welfare shall contract, in accordance with subsection (b), for the conduct of a study to—

"(1) analyze past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identify the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identify on a comparable basis the costs of such prototypes;

"(2) provide a set of basic principles to be followed by and effective health care quality assurance system, including principles affecting the scope of the system, methods for assessing care, data requirements, specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

"(3) provide an assessment of programs for improving the performance of health practitioners and institutions in providing high-quality health care, including a study of the effectiveness of sanctions and educational programs;

"(4) define the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluations protocols for health care quality assurance systems; and

"(5) provide methods for assessing the quality of health care from the point of view of consumers of such care.

"(b) The Secretary shall contract for the conduct of the study required by subsection (a) with a nonprofit private organization which—

"(1) has a national reputation for objectivity in the conduct of studies for the Federal Government;

"(2) has the capacity to readily marshall the widest possible range of expertise and advice relevant to the conduct of such study;

"(3) has a membership and competent staff which have backgrounds in government, the health sciences, and the social sciences;

"(4) has a history of interest and activity in health policy issues related to such study; and

"(5) has extensive existing contracts with interested public and private agencies and organizations.

The Secretary shall enter into such contract within 90 days of the date of the enactment of the first Act making an appropriation under subsection (d).

"(c) An interim report providing a plan for the study required by subsection (a) shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by June 30, 1974; and a final report giving the results of the study and providing specifications for an effective quality assurance system shall be submitted by such organization to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by January 31, 1976.

"(d) There is authorized to be appropriated $10,000,000, which shall be available without fiscal year limitation, for the conduct of the study required by subsection (a)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–5, 300e–6, 300e–9 to 300e–11, 300e–13, 300e–14 of this title.

§ 300e–1. Definitions.

For purposes of this subchapter:

(1) The term "basic health services" means—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(C) medically necessary emergency health services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(G) home health services; and

(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term "home health services" means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(2) The term "supplemental health services" means—

(A) services of facilities for intermediate and long-term care;

(B) vision care not included as a basic health service under paragraph (1)(A) or (1)(H);

(C) dental services not included as a basic health service under paragraph (1)(A) or (1)(H);

(D) mental health services not included as a basic health service under paragraph (1)(D);

(E) long-term physical medicine and rehabilitative services (including physical therapy); and

(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through an optometrist, dentist, or podiatrist (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(3) The term "member" when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

(4) The term "medical group" means a partnership, association, or other group—

(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals, including dentists, optometrists, and podiatrists) as are

necessary for the provision of health services for which the group is responsible;

(B) a majority of the members of which are licensed to practice medicine or osteopathy; and

(C) the members of which (i) as their principal professional activity and as a group responsible engage in the coordinated practice of their profession for a health maintenance organization: (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) utilize such additional professional personnel, allied health professions personnel and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group.

(5) The term "individual practice association" means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(B) to the extent feasible (i) that such persons shall utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (iii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

(6) The term "section 314(a) State health planning agency" means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (hereinafter in this subchapter referred to as a "section 314(a) plan"); and the term "section 314(b) areawide health planning agency" means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this subchapter referred to as a "section 314(b) plan").

(7) The term "medically underserved population" means the population of an urban rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides.

(8) The term "community rating system" means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting payments from the following categories of members:

(i) Individual members (including their families).

(ii) Small groups of members (as determined under regulations of the Secretary).

(iii) Large groups of members (as determined under regulations of the Secretary).

(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of Title 10 or under any other governmental program (other than the health benefits program authorized by chapter 89 of Title 5) or any health benefits program for employees of States, political subdivisions of States, and other public entities.

(9) The term "non-metropolitan area" means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals. (July 1, 1944, ch. 373, title XIII, § 1302, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 917.)

REFERENCES IN TEXT

For definitions of "section 314(a) State health planning agency", "section 314(a) plan", "section 314(b) areawide health planning agency", and "section 314(b) plan", referred to in par. (7), see par. (6) of this section. Section 314 is classified to section 246 of this title.

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

Section 5 of Pub. L. 93–222 provided that: "Within three months of the date of the enactment of this Act [Dec. 29, 1973], the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas and population groups for the purposes of section 1302(7) of the Public Health Service Act [par. (7) of this section]. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under such section 1302(7) as having a shortage of personal health services, (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation, and (3) the areas which meet

the definitional standards under section 1302(9) of such Act [par. (9) of this section] for non-metropolitan areas. The Office of Management and Budget may review the Secretary's report under this section before its submission to the Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and it may submit to Congress its comments (and those of other departments and agencies of the Government) respecting such report."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289*l*–1, 300e of this title.

§ 300e–2. Grants and contracts for feasibility surveys.

(a) Authorization.

The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

(b) Application for grant or contract.

An application for a grant or contract under this section shall contain—

(1) assurances satisfactory to the Secretary that in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

(2) such other information as the Secretary may by regulation prescribe.

(c) Priority applications.

In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

(d) Limitations.

(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

(A) If a project has been assisted with a grant or contract under subsection (a) of this section, the Secretary may not make any other grant or enter into any other contract under this section for such project.

(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(e) Determination of amount.

The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) of this section shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

(f) Methods and time of payments.

Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(g) Government contract requirements lifted.

Contracts may be entered into under this section without regard to section 529 of Title 31 and section 5 of Title 41.

(h) Payments from appropriated funds.

Payments under grants and contracts under this section shall be made from appropriations made under section 300e–8(a) of this title.

(i) Non-metropolitan areas.

Of the sums appropriated for any fiscal year under section 300e–8(a) of this title for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this subchapter for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for projects other than those described in clause (1) of such sentence. (July 1, 1944, ch. 373, title XIII, § 1303, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 920.)

REFERENCES IN TEXT

For definitions of "section 314(b) areawide health planning agency" and "section 314(b) plan", referred to in subsec. (b)(1), see section 300e–1(6) of this title. Section 314 is classified to section 246 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–5, 300e–6, 300e–8, 300e–13 of this title.

§ 300e–3. Grants, contracts, and loan guarantees for planning and for initial development costs.

(a) Authorization.

The Secretary may—

(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establishment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations to serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

(b) Initial development of health organizations.

(1) The Secretary may—

(A) make grants to and enter into contracts with public or nonprofit private entities for projects for the initial development of health maintenance organizations; and

(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve a medically underserved population.

(2) For purposes of this section, the term "initial development" when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel for such an organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

(c) Application for grant, contract, or loan guarantee.

(1) An application for a grant, contract, or loan guarantee under subsection (a) of this section for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) of this section for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) of this section for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) of this section for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

(d) Priority applications.

In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

(e) Limitations.

(1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a) of this section, the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant or loan guarantee is made or contract entered into.

(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he

determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(f) Payments.

(1) The amount to be paid by the United States under a grant made or contract entered into, under subsection (a) of this section for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaranteed under such subsection, may not exceed $125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) of this section for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

(A) $1,000,000, or

(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(g) Methods and time of payment.

Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(h) Government contract requirements lifted.

Contracts may be entered into under this section without regard to section 529 of Title 31 and section 5 of Title 41.

(i) Payments from appropriated funds.

Payments under grants and contracts under this section shall be made from appropriations under section 300e–8(a) of this title.

(j) Time limits on loan guarantees.

Loan guarantees under subsection (a)(2) of this section for planning projects may be made through the fiscal year ending June 30, 1976; and loan guarantees under subsection (b)(1)(B) of this section for initial development projects may be made through the fiscal year ending June 30, 1977.

(k) Non-metropolitan areas.

(1) Of the sums appropriated for any fiscal year under section 300e–8(a) of this title for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this subchapter for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

(2) Of the sums appropriated for any fiscal year under section 300e–8(a) of this title for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this subchapter for approval. Sums set aside in the fiscal year ending June 30, 1974, or in either of the next two fiscal years for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

(July 1, 1944, ch. 373, title XIII, § 1304, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 921.)

REFERENCES IN TEXT

For definitions of "section 314(b) areawide health planning agency" and "section 314(b) plan", referred

to in subsec. (c)(1), see section 300e–1(6) of this title. Section 314 is classified to section 246 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–5, 300e–6, 300e–8, 300e–13 of this title.

§ 300e–4. Loans and loan guarantees for initial operation costs.

(a) Authority.

The Secretary may—

(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determine are attributable to significant expansion in their membership or area served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

(b) Limitations.

(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed $2,500,000. In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000.

(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) of this section may not exceed such limitations as may be specified in appropriation Acts.

(c) Source of loan funds.

Loans under this section shall be made from the fund established under section 300e–7(e) of this title.

(d) Time limit on loans and loan guarantees.

A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978.

(e) Non-metropolitan areas.

Of the sums used for loans under this section in any fiscal year from the loan fund established under section 300e–7(e) of this title, not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this subchapter for approval. (July 1, 1944, ch. 373, title XIII, § 1305, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 924, and amended Jan. 4, 1975, Pub. L. 93–641, § 8, 88 Stat. 2276.)

REFERENCES IN TEXT

The maximum amount disbursed in any fiscal year under a loan or loans made or guaranteed under this section for a health maintenance organization, referred to in subsec. (b)(1), as "$1,000,000,000" was probably intended to read "$1,000,000".

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 93–641 substituted provisions that the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000 for provisions that th principal amount of any loan made or guaranteed under subsec. (a) of this section for a health maintenance organization may not exceed $1,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e–13 of this title.

§ 300e–5. Application requirements.

(a) Submission to and approval by Secretary required for making grants, loans, contracts, and loan guarantees.

No grant, contract, loan, or loan guarantee may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

(b) Application contents.

The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this subchapter unless—

(1) in the case of an application for assistance under section 300e–2 or 300e–3 of this title, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 300e–7 of this title;

(2) he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 300e(c)

of this title, (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;

(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this subchapter, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this subchapter and with the plans contained in previous applications for such assistance; and

(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this subchapter, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

(c) Regulations.

The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this subchapter. (July 1, 1944, ch. 373, title XIII, § 1306, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 925.)

REFERENCES IN TEXT

For definitions of "section 314(a) State health planning agency", "section 314(a) plan", "section 314(b) areawide health planning agency", and "section 314(b) plan", referred to in subsecs. (b)(5) and (c), see section 300e–1(6) of this title. Section 314 is classified to section 246 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e–6 of this title.

§ 300e–6. Administration of assistance programs.

(a) Recordkeeping; audit and examination.

(1) Each recipient of a grant, contract, loan, or loan guarantee under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan gurantee under this subchapter which relate to such assistance.

(b) Report upon expiration of period.

Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this subchapter such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in section 300e–5(b)(3) of this title.

(c) Priority applications.

If in any fiscal year the funds appropriated under section 300e–8 of this title are insufficient to fund all applications approved under this subchapter for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 300e–2 and 300e–3 of this title, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

(d) Other entities considered health maintenance organizations.

An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act or to medical assistance under a State plan approved under

title XIX of such Act may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if—

(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 300e(b) of this title, except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 300e(c) of this title, except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

(2) with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

(e) Cumulative total of loan guarantees in any fiscal year limited by amount of grant and contract funds obligated.

In any fiscal year no loan guarantee may be made under this subchapter if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed under this subchapter in such fiscal year to exceed the amount of grant and contract funds obligated under this subchapter in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this subchapter in such fiscal year equals the sums appropriated under section 300e–8 of this title for grants and contracts for such fiscal year. (July 1, 1944, ch. 373, title XIII, § 1307, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 926.)

REFERENCES IN TEXT

Titles XVIII and XIX of the Social Security Act, referred to in subsec. (d), are classified, respectively, to sections 1395 et seq. and 1396 et seq. of this title.

§ 300e–7. General provisions relating to loan guarantees and loans.

(a) Conditions.

(1) The Secretary may not approve an application for a loan guarantee under this subchapter unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this subchapter.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this subchapter the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this subchapter (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this subchapter shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this subchapter shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Application requirements.

(1) The Secretary may not approve an application for a loan under this subchapter unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this subchapter shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this subchapter, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this subchapter except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans.

(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this subchapter.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this subchapter to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e) of this section.

(d) Loan guarantee fund.

(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this subchapter. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this subchapter and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this subchapter, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Loan fund.

There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this subchapter. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this subchapter and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets. (July 1, 1944, ch. 373, title XIII, § 1308, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 927.)

REFERENCES IN TEXT

Chapter 1 of the Internal Revenue Code of 1954, referred to in subsec. (c)(3), is set out in section 1 et seq. of Title 26, Internal Revenue Code.

The Second Liberty Bond Act, referred to in subsec. (d)(2), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752d, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–4, 300e–5, 300e–8 of this title.

§ 300e–8. Authorization of appropriations.

(a) For the purpose of making payments under grants and contracts under sections 300e–2, 300e–3(a), and 300e–3(b) of this title, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $85,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 300e–3(b) of this title for the fiscal year ending June 30, 1977, there is authorized to be appropriated $85,000,000.

(b) There is authorized to be appropriated to the loan fund established under section 300e–7(e) of this title $75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975. (July 1, 1944, ch. 373, title XIII, § 1309, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 930.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–2, 300e–3, 300e–6 of this title.

§ 300e–9. Employees' health benefits plans.

(a) Each employer which is required during any calendar quarter to pay its employees the minimum wage specified by section 206 of Title 29 (or would be required to pay his employees such wage but for section 213(a) of Title 29), and which during such calendar quarter employed an average number of employees of not less than twenty-five, shall, in accordance with regulations which the Secretary shall prescribe, include in any health benefits plan offered to its employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic and supplemental health services in the areas in which such employees reside.

(b) If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) of this section reside and if—

(1) one or more of such organizations provides basic health services through professionals who are members of the staff of the organization or a medical group (or groups), and

(2) one or more of such organizations provides such services through an individual practice association (or associations),

then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) of this section at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees. Failure of any employer to comply with the requirements of subsection (a) of this section shall be considered a willful violation of section 215 of Title 29.

(d) For purposes of this section, the term "qualified health maintenance organization" means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and that it is organized and operated in the manner prescribed by section 300e(c) of this title, and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and will be organized and operated in the manner prescribed by section 300e(c) of this title. (July 1, 1944, ch. 373, title XIII, § 1310, as added Dec. 29, 1973, Pub. L. 93–222 § 2, 87 Stat. 930.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–10, 300e–11, 300e–13, 300e–14, 300*l*–1 of this title.

§ 300e–10. Restrictive State laws and practices.

(a) In the case of any entity—

(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

(B) requires that physicians constitute all or a percentage of its governing body,

(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

(2) for which a grant, contract, loan, or loan guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e–9 of this title (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 300e of this title.

(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e–9 of this title (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization. (July 1, 1944, ch. 373, title XIII, § 1311, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 931.)

§ 300e–11. Continued regulation of health maintenance organizations.

(a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this subchapter as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 300e–9 of this title—

(1) fails to provide basic and supplemental services to its members,

(2) fails to provide such services in the manner prescribed by section 300e(b) of this title, or

(3) is not organized or operated in the manner prescribed by section 300e(c) of this title,

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its

organization or operation, as the case may be, which assurances were made under section 300e–9 of this title or when application was made under this subchapter for a grant, contract, loan, or loan guarantee.

(b) The Secretary, through the Assistant Secretary for Health, shall administer subsection (a) of this section in the Office of the Assistant Secretary for Health. (July 1, 1944, ch. 373, title XIII, § 1312, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 931.)

§ 300e–12. Limitation on source of funding for health maintenance organizations.

No funds appropriated under any provision of this chapter other than this subchapter may be used—

(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

(July 1, 1944, ch. 373, title XIII, § 1313, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 932.)

§ 300e–13. Program evaluation.

(a) Operation of health maintenance organizations; report to Congress.

The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 300e–2, 300e–3, or 300e–4 of this title The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall be not less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings—

(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

(2) with respect to the ability of such organizations to meet the requirements of section 300e(c) of this title respecting their organization and operation,

(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 300e (b) of this title,

(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

(5) with respect to the ability of such organizations to provide services to medically underserved populations.

(b) Study.

The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 300e–9 of this title. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after December 29, 1973.

(c) Comparison of health maintenance organizations.

The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later than thirty-six months after December 29, 1973. (July 1, 1944, ch. 373, title XIII, § 1314, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 932.)

§ 300e–14. Annual report.

(a) The Secretary shall periodically review the programs of assistance authorized by this subchapter and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

(1) a summary of each grant, contract, loan, or loan guarantee made under this subchapter in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 300e–9 of this title;

(2) the statistics and other information reported in such period to the Secretary in accordance with section 300e(c)(11) of this title;

(3) findings with respect to the ability of the health maintenance organizations assisted under this subchapter—

(A) to operate on a fiscally sound basis without continued Federal financial assistance,

(B) to meet the requirements of section 300e (c) of this title respecting their organization and operation,

(C) to provide basic and supplemental health services in the manner prescribed by section 300e (b) of this title,

(D) to include indigent and high-risk individuals in their membership, and

(E) to provide services to medically underserved populations; and

(4) findings with respect to—

(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

(b) The Office of Management and Budget may review the Secretary's report under subsection (a) of this section before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report. (July 1, 1944, ch. 373, title XIII, § 1315, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 933.)

§ 300e–14a. Health services for Indians and domestic agricultural migratory and seasonal workers.

The Secretary of Health, Education, and Welfare in connection with existing authority (except section 247d of this title) for the provisions of health services to domestic agricultural migratory workers to persons who perform seasonal agricultural services similar to the services performed by such workers and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this section the Secretary may only use sums appropriated after December 29, 1973. (Pub. L. 93–222, § 6(b), Dec. 29, 1973, 87 Stat. 936.)

REFERENCES IN TEXT

Section 247d of this title, referred to in text, was in the original a reference to section 310 of the Public Health Service Act. Such section 310 was renumbered as section 319 by Pub. L. 93–353, title I, § 102(d), July 23, 1974, 88 Stat. 362, and is classified to section 247d of this title.

CODIFICATION

Section was enacted as part of the Health Maintenance Organization Act of 1973 and not as part of the Public Health Service Act, which comprises this chapter.

SUBCHAPTER XII.—SAFETY OF PUBLIC WATER SYSTEMS [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 201, 300s–4 of this title.

PART A.—DEFINITIONS

§ 300f. Definitions.

For purposes of this subchapter:

(1) The term "primary drinking water regulation" means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1 of this title; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

(2) The term "secondary drinking water regulation" which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary accordingly to geographic and other circumstances.

(3) The term "maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) The term "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(5) The term "supplier of water" means any person who owns or operates a public water system.

(6) The term "contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(8) The term "Agency" means the Environmental Protection Agency.

(9) The term "Council" means the National Drinking Water Advisory Council established under section 300j–5 of this title.

(10) The term "municipality" means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

(11) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(12) The term "person" means an individual, corporation, company, association, partnership, State, or municipality.

(July 1, 1944, ch. 373, title XIV, § 1401, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1660.)

SHORT TITLE

Section 1 of Pub. L. 93-523 provided that: "This Act [which enacted this subchapter and section 349 of Title 21, amended section 201(f) of this title, and enacted provisions set out as a note under this section] may be cited as the 'Safe Drinking Water Act'."

RURAL WATER SURVEY; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 3 of Pub. L. 93-523 provided that:

"(a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

"(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

"(2) presently having limited or otherwise inadequate access to drinking water;

"(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

"(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence of inadequacy of a drinking water supply system.

"(b) Such survey shall be completed within eighteen months of the date of enactment of this Act [Dec. 16, 1974] and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

"(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-4, 300g-5 of this title.

PART B.—PUBLIC WATER SYSTEMS

§ 300g. Coverage.

Subject to sections 300g-4 and 300g-5 of this title, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) which does not sell water to any person; and

(4) which is not a carrier which conveys passengers in interstate commerce.

(July 1, 1944, ch. 373, title XIV, § 1411, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1662.)

§ 300g-1. National drinking water regulations.

(a) Interim primary regulations; publication of proposed regulations; promulgation; effective date; amendments.

(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after December 16, 1974. Within 180 days after December 16, 1974, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on December 16, 1974.

(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.

(b) Recommended maximum contaminant levels and list of contaminants with adverse effect but of undetermined levels: publication of proposals in Federal Register and establishment of recommended levels and list; revised primary regulations: publication of proposed regulations in Federal Register, promulgation, requirements, "feasible" defined, amendments, triennial review, effective date, supersedure of interim primary regulations.

(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) of this section is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e) of this section, may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e) of this section, list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator

may by rule change recommended levels established under this subparagraph or change such list.

(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term "feasible" means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years.

(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) of this section shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

(6) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(c) Secondary regulations; publication of proposed regulations; promulgation; amendments.

The Administrator shall publish proposed national secondary drinking water regulations within 270 days after December 16, 1974. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations; public hearings; administrative consultations.

Regulations under this section shall be prescribed in accordance with section 553 of Title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e) Study; maximum contaminant level determination; adverse effect of contaminants of undetermined levels; report to Congress; funds.

(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) of this section in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after December 16, 1974. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

(6) Of the funds authorized to be appropriated to the Administrator by this subchapter, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection. (July 1, 1944, ch. 373, title XIV, § 1412, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g–2, 300g–3, 300g–4, 300g–5, 300j–1, 300j–2, 300j–3, 300j–4, 300j–6, 300j–7 of this title; title 21 section 349.

§ 300g–2. State primary enforcement responsibility; regulations; notice and hearing; publication in Federal Register; applications.

(a) For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b) of this section) that such State—

(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 300g–1 of this title and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g–4 and 300g–5 of this title;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

(b)(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) of this section are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial. (July 1, 1944, ch. 373, title XIV, § 1413, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1665.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–3, 300j–2, 300j–7 of this title.

§ 300g–3. Failure of State to assure enforcement of drinking water regulations.

(a) Notice to State; public notice; civil action, conditions.

(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 300g–2(a) of this title) that any public water system—

(i) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g–1 of this title, or

(ii) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the

system into compliance with such regulation or requirement by the earliest feasible time.

(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A); and

(ii) (α) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

(β) The State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time;

the Administrator may commence a civil action under subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

(A) for which a variance under section 300g–4(a)(2) or an exemption under section 300g–5(f) of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g–1 of this title, or

(B) for which a variance under section 300g–4(a)(2) or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b) of this section.

(b) Judicial determinations in appropriate Federal district courts; civil penalties; separate violations.

The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 300g–4 or 300g–5 of this title if—

(1) authorized under paragraph (1) or (2) of subsection (a), or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a willful violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs.

(c) Notice of owner or operator of public water system to persons served; regulations for form and manner of notice; penalties.

Each owner or operator of a public water system shall give notice to the persons served by it—

(1) of any failure on the part of the public water system to—

(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

(B) perform monitoring required by section 300j–4(a) of this title, and

(2) if the public water system is subject to a variance granted under section 300g–4(a)(1)(A) or 300g–4(a)(2) of this title for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 300g–5 of this title, of—

(A) the existence of such variance or exemption, and

(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

(d) Notice of noncompliance with secondary drinking water regulations.

Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more

public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) State authority to adopt or enforce laws or regulations respecting drinking water regulations or public water systems unaffected.

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter.

(f) Notice and public hearing; availability of recommendations transmitted to State and public water system.

If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1) of this section) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media. (July 1, 1944, ch. 373, title XIV, § 1414, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1666.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–4, 300g–5, 300j–7 of this title.

§ 300g–4. Variances.

(a) Characteristics of raw water sources; specific treatment technique; notice to Administrator, reasons for variance; compliance, enforcement; approval or revision of schedules and revocation of variances; review of variances and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting variances or failing to prescribe schedules; State corrective action; authority of Administrator in a State without primary enforcement responsibility; alternative treatment techniques.

Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe within one year of the date the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each containment level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such

notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 300g–3 of this title as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance on schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Enforcement of schedule or other requirement.

Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) of this section is conditioned may be enforced under section 300g–3 of this title as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) Applications for variances; regulations: reasonable time for acting.

If an application for a variance under subsection (a) of this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) "Treatment technique requirement" defined.

For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1(b)(3) of this title. (July 1, 1944, ch. 373, title XIV, § 1415, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1669.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g–2, 300g–3, 300j–2, 300j–7, 300j–8 of this title.

§ 300g–5. Exemptions.

(a) Requisite findings.

A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement.

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

(3) the granting of the exemption will not result in an unreasonable risk to health.

(b) Compliance schedule and implementation of control measures; notice and hearing; dates for compliance with schedule; compliance, enforcement; approval or revision of schedules and revocation of exemptions.

(1) If a State grants a public water system an exemption under subsection (a) of this section, the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each containment level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminent, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) of this section shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 300g–1(a) of this title, not later than January 1, 1981; and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

(3) Each public water system's exemption granted by a State under subsection (a) of this section shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 300g–3 of this title as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) of this section or the schedule is revised by the Administrator under such subsection.

(c) Notice to Administrator; reasons for exemption.

Each State which grants an exemption under subsection (a) of this section shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) of this section before the exemption may be granted) and document the need for the exemption.

(d) Review of exemptions and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting exemptions or failing to prescribe schedules; State corrective action.

(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review, together with findings responsive to comments submitted in connection with such review.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) of this section or failed to prescribe schedules in accordance with subsection (b) of this section, the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) "Treatment technique requirement" defined.

For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1(b)(3) of this title.

(f) Authority of Administrator in a State without primary enforcement responsibility.

If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

(g) Applications for exemptions; regulations: reasonable time for acting.

If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission. (July 1, 1944, ch. 373, title XIV, § 1416, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1672.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g–2, 300g–3, 300j–2, 300j–7, 300j–8 of this title.

PART C.—PROTECTION ON UNDERGROUND SOURCES OF DRINKING WATER

§ 300h. Regulations for State programs.

(a) Publication of proposed regulations; promulgation; amendments; public hearings; administrative consultations.

(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after December 16, 1974. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of Title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b) Minimum requirements; restrictions.

(1) Regulations under subsection (a) of this section for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d) (2) of this section. Such regulations shall require that a State program, in order to be approved under section 300h–1 of this title—

(A) shall prohibit, effective three years after December 16, 1974, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 300j–6 (b) of this title, to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(c) Temporary permits; notice and hearing.

(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (1) (B) (i) of this section) temporary permits for underground injection which may be effective until the, expiration of four years after December 16, 1974, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (1) (B) (i) of this section), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after December 16, 1974, if the State finds, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) "Underground injection" defined; underground injection endangerment of drinking water sources.

For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection.

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or

can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

(July 1, 1944, ch. 373, title XIV, § 1421, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–1, 300j–2, 300j–7 of this title.

§ 300h–1. State primary enforcement responsibility.

(a) List of States in need of a control program; amendment of list.

Within 180 days after December 16, 1974, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing.

(1)(A) Each State listed under subsection (a) of this section shall within 270 days after the date of promulgation of any regulation under section 300h of this title (or, if later, within 270 days after such State is first listed under subsection (a) of this section) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 300h of this title; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

(B) Within 270 days of any amendment of a regulation under section 300h of this title revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) of this section shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) Program by Administrator for State without primary enforcement responsibility; restrictions.

If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) of this section, if the Administrator determines under subsection (b)(3) of this section that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A) of this section, or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1) of this section, the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 300h(b) of this title. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) "Applicable underground injection control program" defined.

For purposes of this subchapter, the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b) of this section, or (2) which has been prescribed by the Administrator under subsection (c) of this section. (July 1, 1944, ch. 373, title XIV, § 1422, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1676.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300h–2, 300j–2, 300j–4 of this title.

§ 300h–2. Failure of State to assure enforcement of program.

(a) Notice to State and violator; public notice; civil action, conditions.

(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 300h–1(b)(3) of this title) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such re-

quirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b) (1) of this section.

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b) (1) of this section.

(b) Judicial determinations in appropriate Federal district courts; civil penalties; separate violations; penalties for willfull violations.

(1) When authorized by subsection (a) of this section, the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a) (1) of this section.

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

(c) State authority to adopt or enforce laws or regulations respecting underground injection unaffected.

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter. (July 1, 1944, ch. 373, title XIV, § 1423, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1677.)

§ 300h–3. Interim regulation of underground injections.

(a) Necessity for well operation permit; designation of one aquifer areas.

(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b) of this section. The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) Well operation permits; publication in Federal Register; notice and hearing; issuance or denial; conditions for issuance.

(1) During the period beginning on the date an area is designated under subsection (a) of this section and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition

submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) of this section only, if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Civil penalties; separate violations; penalties for willful violations; temporary restraining order or injunction.

Any person who operates a new underground injection well in violation of subsection (b) of this section, (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b) of this section, he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

(d) "New underground injection well" defined.

For purposes of this section, the term "new underground injection well" means an underground injection well whose operation was not approved by appropriate State and Federal agencies before December 16, 1974.

(e) Areas with one aquifer; publication in Federal Register; commitments for Federal financial assistance.

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer. (July 1, 1944, ch. 373, title XIV, § 1424, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–4 of this title.

PART D.—EMERGENCY POWERS

§ 300i. Emergency powers.

(a) Actions authorized against imminent and substantial endangerment to health.

Notwithstanding any other provision of this subchapter the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Penalties for violations; separate offenses.

Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) of this section may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or failure to comply continues. (July 1, 1944, ch. 373, title XIV, § 1431, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a) 88 Stat. 1680.)

PART E.—GENERAL PROVISIONS

§ 300j. Assurances of availability of adequate supplies of chemicals necessary for treatment of water.

(a) Certification of need application.

If any person who uses chlorine activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a "certification of need") that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b) Application requirements; publication in Federal Register; waiver; certification, issuance or denial.

(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the

persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c) Certification of need; issuance; executive orders; implementation of orders; equitable apportionment of orders; factors considered.

(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f) of this section, any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) Breach of contracts; defense.

There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1) of this section, that such delay or failure was caused solely by compliance with such order.

(e) Penalties for noncompliance with orders; temporary restraining orders and preliminary or permanent injunctions.

(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be fined not more than $5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1) of this section, he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

(f) Termination dates.

No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after June 30, 1977,

whichever occurs first. (July 1, 1944, ch. 373, title XIV, § 1441, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1680.)

EX. ORD. NO. 11879. DELEGATION OF FUNCTIONS TO SECRETARY OF COMMERCE RELATING TO ORDERS FOR PROVISION OF CHEMICALS OR SUBSTANCES NECESSARY FOR TREATMENT OF WATER

Ex. Ord. No. 11879, Sept. 17, 1975, 40 F.R. 43197, provided:

By virtue of the authority vested in me by Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), and as President of the United States, the Secretary of Commerce is hereby delegated, with power to redelegate to agencies, officers and employees of the Government, the functions of the President contained in said section 1441 [this section]. Those functions shall be administered under regulations or agreements which are identical or compatible with other regulations and agreements, including those provided pursuant to Executive Order No. 10480, as amended [set out as a note under section 2153 of Title 50, Appendix, War and National Defense], for the allocation of similar chemicals or substances.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–4 of this title.

§ 300j–1. Research, technical assistance, information, training of personnel.

(a) Specific powers and duties of Administrator.

(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 300j–2(c)(1) of this title).

(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g–1 of this title.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after December 16, 1974, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after December 16, 1974, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(b) Other powers and duties of Administrator.

In carrying out this subchapter, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this subchapter;

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for oc-

cupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this subchapter (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 300j–2(d) of this title)).

(c) Authorization of appropriations.

There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XIV, § 1442, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1682.)

§ 300j–2. Grants for State programs.

(a) Public water system supervision programs; applications for grants; allotment of sums; authorization of appropriations.

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant fatcors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided,* That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further,* That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

(b) Underground water source protection programs; applications for grants; allotment of sums; authorization of appropriations.

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within two years from the date of such grant an underground water source protection, and

(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's cost (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

(c) Definitions.

For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 300g–4 and 300g–5 of this title) which are no less stringent than the national primary drinking water regulations under section 300g–1 of this title, and for keeping records

and making reports required by section 300g–2 (a) (3) of this title.

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 300h of this title and for keeping records and making reports required by section 300h–1(b) (1) (A) (ii) of this title.

(July 1, 1944, ch. 373, title XIV, § 1443, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1684.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–1 of this title.

§ 300j–3. Special project grants and guaranteed loans.

(a) Special study and demonstration project grants.

The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology, for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations.

Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) Authorization of appropriations.

For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

(d) Loan guarantees to public water systems; conditions; indebtedness limitation; regulations.

The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 300g–1 of this title. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection. (July 1, 1944, ch. 373, title XIV, § 1444, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1685.)

§ 300j–4. Records and inspections.

(a) Persons subject to requirements.

Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 300g–1 of this title or to an applicable underground injection control program (as defined in section 300h–1(c) of this title), who is or may be subject to the permit requirement of section 300h–3 of this title or to an order issued under section 300j of this title, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter or in administering any program of financial assistance under this subchapter.

(b) Entry of establishments, facilities, or other property; inspections; conduct of certain tests; audit and examination of records; entry restrictions; prohibition against informing of a proposed entry.

(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a national primary drinking water regulation prescribed under section 300g–1 of this title or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment, facility, or other property of such supplier or other person in

order to determine whether such supplier or other person has acted or is acting in compliance with this subchapter, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) of this section or which are pertinent to any financial assistance under this subchapter.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Penalty.

Whoever fails or refuses to comply with any requirement of subsection (a) of this section or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) of this section may be fined not more than $5,000.

(d) Confidential information; trade secrets and secret processes; information disclosure; "information required under this section" defined.

(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of Title 18. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this subchapter or to committees of the Congress, or when relevant in any proceeding under this subchapter, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) "Grantee" and "person" defined.

For purposes of this section, (1) the term "grantee" means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this subchapter, and (2) the term "person" includes a Federal agency. (July 1, 1944, ch. 373, title XIV, § 1445, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g–3 of this title.

§ 300j–5. National Drinking Water Advisory Council.

(a) Establishment; membership; representation of interests; term of office, vacancies; reappointment.

There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after December 16, 1974, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) Functions.

The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this subchapter.

(c) Compensation and allowances; travel expenses.

Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual

rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5.

(d) Advisory committee termination provision inapplicable.

Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council. (July 1, 1944, ch. 373, title XIV, § 1446, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1688.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, including section 14(a) of such Act, referred to in subsec. (d), is set out in Appendix I to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300f of this title.

§ 300j–6. Federal agencies.

(a) Compliance with national primary drinking water regulations; applicable underground injection control programs: compliance with programs, recordkeeping, and reports.

Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 300g–1 of this title, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

(b) Waiver; national security; records available in judicial proceedings; publication in Federal Register; notice to Congressional Committees.

The Administrator shall waive compliance with subsection (a) of this section upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this subchapter. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives. (July 1, 1944, ch. 373, title XIV, § 1447, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h of this title.

§ 300j–7. Judicial review.

(a) Courts of appeals; petition for review: actions respecting regulations; filing period; grounds arising after expiration of filing period; exclusiveness of remedy.

A petition for review of—

(1) action of the Administrator in promulgating any national primary drinking water regulation under section 300g–1 of this title, any regulation under section 300g–2(b)(1) of this title, any regulation under section 300g–3(c) of this title, any regulation for State underground injection control programs under section 300h of this title, or any general regulation for the administration of this subchapter may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and

(2) action of the Administrator in promulgating any other regulation under this subchapter, issuing any order under this subchapter, or making any determination under this subchapter may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(b) District courts; petition for review: actions respecting variances or exemptions; filing period; grounds arising after expiration of filing period; exclusiveness of remedy.

The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 300g–4 or 300g–5 of this title or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(c) Judicial order for additional evidence before Administrator; modified or new findings; recommendation for modification or setting aside of original determination.

In any judicial proceeding in which review is sought of a determination under this subchapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such term and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence. (July 1, 1944, ch. 373, title XIV, § 1448, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1689.)

§ 300j–8. Citizen's civil actions.

(a) Persons subject to civil actions; jurisdiction of enforcement proceedings.

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this subchapter, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this subchapter which is not discretionary with the Administrator.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this subchapter which occurred within the 27-month period beginning on the first day of the month in which this subchapter is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this subchapter or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

(b) Conditions for commencement of civil action; notice.

No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this subchapter—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) of this section to require a State to prescribe a schedule under section 300g–4 or 300g–5 of this title for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

(c) Intervention of right.

In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs; attorney fees; expert witness fees; filing of bond.

The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Statutory or common law or other relief available.

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this subchapter or to seek any other relief. (July 1, 1944, ch. 373, title XIV, § 1449, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1690.)

§ 300j–9. General provisions.

(a) Regulations; delegation of functions.

(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this subchapter.

(2) The Administrator may delegate any of his functions under this subchapter (other than prescribing regulations) to any officer or employee of the Agency.

(b) Utilization of officers and employees of Federal agencies.

The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this subchapter.

(c) Assignment of Agency personnel to State or interstate agencies.

Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the

purposes of carrying out the provisions of this subchapter.

(d) Payments of grants; adjustments; advances; reimbursement; installments; conditions; eligibility for grants; "nonprofit agency or institution" defined.

(1) The Administrator may make payments of grants under this subchapter (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term "nonprofit agency or institution" means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) Labor standards.

The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; sections 276a to 276a–5 of Title 40). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of Title 40.

(f) Appearance and representation of Administrator through Attorney General or attorney appointees.

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this subchapter to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) Authority of Administrator under other provisions unaffected.

The provisions of this subchapter shall not be construed as affecting any authority of the Administrator under part G of subchapter II of this chapter.

(h) Reports to Congressional Committees; review by Office of Management and Budget: submittal of comments to Congressional Committees.

Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this subchapter and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this subchapter. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

(i) Discrimination prohibition; filing of complaint; investigation; orders of Secretary; notice and hearing; settlements; attorneys' fees; judicial review; filing of petition; procedural requirements; stay of orders; exclusiveness of remedy; civil actions for enforcement of orders; appropriate relief; expedition of proceedings; mandamus proceedings; prohibition inapplicable to undirected but deliberate violations.

(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this subchapter or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

(B) testified or is about to testify in any such proceeding, or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this subchapter.

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary

shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of Title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of Title 28.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this subchapter. (July 1, 1944, ch. 373, title XIV, § 1450, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1691.)

SUBCHAPTER XIII.—NATIONAL HEALTH PLANNING AND DEVELOPMENT [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 300s–3 of this title.

§ 300k. Congressional findings.

(a) The Congress makes the following findings:

(1) The achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government.

(2) The massive infusion of Federal funds into the existing health care system has contributed to inflationary increases in the cost of health care and failed to produce an adequate supply or distribution of health resources, and consequently has not made possible equal access for everyone to such resources.

(3) The many and increasing responses to these problems by the public sector (Federal, State, and local) and the private sector have not resulted in a comprehensive, rational approach to the present—

(A) lack of uniformly effective methods of delivering health care;

(B) maldistribution of health care facilities and manpower; and

(C) increasing cost of health care.

(4) Increases in the cost of health care, particularly of hospital stays, have been uncontrollable and inflationary, and there are presently inadequate incentives for the use of appropriate alternative levels of health care, and for the substitution of ambulatory and intermediate care for inpatient hospital care.

(5) Since the health care provider is one of the most important participants in any health care delivery system, health policy must address the legitimate needs and concerns of the provider if it is to achieve meaningful results; and, thus, it is imperative that the provider be encouraged to play an active role in developing health policy at all levels.

(6) Large segments of the public are lacking in basic knowledge regarding proper personal health care and methods for effective use of available health services.

(b) In recognition of the magnitude of the problems described in subsection (a) of this section and the urgency placed on their solution, it is the purpose of this Act to facilitate the development of recommendations for a national health planning policy, to augment areawide and State planning for health service, manpower, and facilities, and to authorize financial assistance for the development of resources to further that policy. (Pub. L. 93–641, § 2, Jan. 4, 1975, 88 Stat. 2226.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the National Health Planning and Resources Development Act of 1974. For a classification of that Act, see short title note hereunder.

CODIFICATION

Section was enacted as part of the National Health Planning and Resources Development Act of 1974 and not as part of the Public Health Service Act.

SHORT TITLE

Section 1 of Pub. L. 93–641 provided that: "This Act [enacting this section and sections 300k–1 to 300k–3, 300*l* to 300*l*–5, 300m to 300m–5, 300n to 300n–5, 300*o* to 300*o*–3, 300p to 300p–3, 300q to 300q–2, 300r, 300s to 300s–5, 300t, amending section 300e–4 of this title, repealing section 247a of this title, and enacting provisions set out as notes under this section and sections 217a, 229, 291b, 300*l*–4, and 300m of this title] may be cited as the 'National Health Planning and Resources Development Act of 1974'."

PART A.—NATIONAL GUIDELINES FOR HEALTH PLANNING

§ 300k–1. Regulations prescribing guidelines.

(a) The Secretary shall, within eighteen months after January 4, 1975, by regulation issue guidelines concerning national health planning policy and shall, as he deems appropriate, by regulation revise such guidelines. Regulations under this subsection shall be promulgated in accordance with section 553 of Title 5.

(b) The Secretary shall include in the guidelines issued under subsection (a) of this section the following:

(1) Standards respecting the appropriate supply, distribution, and organization of health resources.

(2) A statement of national health planning goals developed after consideration of the priorities, set forth in section 1502, which goals, to the maximum extent practicable, shall be expressed in quantitative terms.

(c) In issuing guidelines under subsection (a) of this section the Secretary shall consult with and solicit recommendations and comments from the health systems agencies designated under part B of this subchapter, the State health planning and development agencies designated under part C of this subchapter, the Statewide Health Coordinating Councils established under part C of this subchapter, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development established by section 300k–3 of this title. (July 1, 1944, ch. 373, title XV, § 1501, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2227.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300k–3, 300l–2, 300n–2 of this title.

§ 300k–2. National health priorities.

The Congress finds that the following deserve priority consideration in the formulation of national health planning goals and in the development and operation of Federal, State, and area health planning and resources development programs:

(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.

(2) The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).

(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care.

(4) The training and increased utilization of physician assistants, especially nurse clinicians.

(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.

(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act.

(7) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

(8) The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

(9) The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions.

(10) The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services.

(July 1, 1944, ch. 373, title XV, § 1502, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2227.)

REFERENCES IN TEXT

Part B of title XI of the Social Security Act, referred to in par. (6), is classified to section 1320c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l–2, 300n–2 of this title.

§ 300k–3. National Council on Health Planning and Development.

(a) Establishment; functions.

There is established in the Department of Health, Education, and Welfare an advisory council to be known as the National Council on Health Planning and Development (hereinafter in this section referred to as the "Council"). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the development of national guidelines under section 300k–1 of this title, (2) the implementation and administration of this subchapter and subchapter XIV of this chapter, and (3) an evaluation of the implications of new medical technology for the organization, delivery, and equitable distribution of health care services.

(b) Composition; terms of office of members.

(1) The Council shall be composed of fifteen members. The Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare shall be nonvoting ex officio members of the Council. The remaining members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Of the voting members, not less than five shall be persons who are not providers of health services, not more than three shall be officers or employees of the Federal Government, not less than three shall be members of governing bodies of

health systems agencies designated under part B of this subchapter, and not less than three shall be members of Statewide Health Coordinating Councils under section 300m–3 of this title. The two major political parties shall have equal representation among the voting members on the Council.

(2) The term of office of voting members of the Council shall be six years, except that—

(A) of the members first appointed to the Council, four shall be appointed for terms of two years and four shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration of his term until his successor has taken office.

(3) The chairman of the Council shall be selected by the voting members from among their number. The term of office of the chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

(c) Compensation; travel expenses.

(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5.

(d) Services of experts and consultants.

The Council may appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Council may procure the services of experts and consultants as authorized by section 3109 of Title 5, but without regard to the last sentence of such section.

(e) Federal Advisory Committee Act not applicable.

The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council. (July 1, 1944, ch. 373, title XV, § 1503, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2228.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c)(1), is set out in section 5332 of Title 5, Government Organization and Employees, and notes thereunder.

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (e), is section 14(c) of Pub. L. 92–463, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300k–1, 300o–1 of this title.

PART B.—HEALTH SYSTEMS AGENCIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k–1, 300k–3, 300*l* of this title.

§ 300*l*. Health service areas.

(a) Requirements; factors considered in establishing boundaries.

There shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 300*l*–4 of this title. Each health service area shall meet the following requirements:

(1) The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area.

(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

(3) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

(A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

(B) the population of an area may—

(i) be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

(ii) be less than—

(I) five hundred thousand (but not less than two hundred thousand) in unusual circumstances (as determined by the Secretary), or

(II) two hundred thousand in highly unusual circumstances (as determined by the Secretary),

if the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection.

(4) To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1320c–1 of this title for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas.

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and

health services development needs between nonmetropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

(b) Notice to state governors; publication in Federal Register; boundary designations; revision; review by Secretary; adoption of comprehensive area plans already developed.

(1) Within thirty days following January 4, 1975, the Secretary shall simultaneously give to the Governor of each State written notice of the initiation of proceedings to establish health service areas throughout the United States. Each notice shall contain the following:

(A) A statement of the requirement (in subsection (a) of this section) of the establishment of health service areas throughout the United States.

(B) A statement of the criteria prescribed by subsection (a) of this section for health service areas and the procedures prescribed by this subsection for the designation of health service area boundaries.

(C) A request that the Governor receiving the notice (i) designate the boundaries of health service areas within his State, and, where appropriate and in cooperation with the Governors of adjoining States, designate the boundaries within his State of health service areas located both in his State and in adjoining States, and (ii) submit (in such form and manner as the Secretary shall specify) to the Secretary, within one hundred and twenty days of January 4, 1975, such boundary designations together with comments, submitted by the entities referred to in paragraph (2), with respect to such designations.

At the time such notice is given under this paragraph to each Governor, the Secretary shall publish as a notice in the Federal Register a statement of the giving of his notice to the Governor and the criteria and procedures contained in such notice.

(2) Each State's Governor shall in the development of boundaries for health service areas consult with and solicit the views of the chief executive officer or agency of the political subdivisions within the State, the State agency which administers or supervises the administration of the State's health planning functions under a State plan approved under section 246(a) of this title, each entity within the State which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 246(b) of this title, and each regional medical program established in the State under subchapter VII of this chapter.

(3)(A) Within two hundred and ten days after January 4, 1975, the Secretary shall publish as a notice in the Federal Register the health service area boundary designations. The boundaries for health service areas submitted by the Governors shall, except as otherwise provided in subparagraph (B), constitute upon their publication in the Federal Register the boundaries for such health service areas.

(B)(i) If the Secretary determines that a boundary submitted to him for a health service area does not meet the requirements of subsection (a) of this section, he shall, after consultation with the Governor who submitted such boundary, make such revision in the boundary for such area (and as necessary, in the boundaries for adjoining health service areas) as may be necessary to meet such requirements and publish such revised boundary (or boundaries); and the revised boundary (or boundaries) shall upon publication in the Federal Register constitute the boundary (or boundaries) for such health service area (or areas). The Secretary shall notify the Governor of each State in which is located a health service area whose boundary is revised under this clause of the boundary revision and the reasons for such revision.

(ii) In the case of areas of the United States not included within the boundaries for health service areas submitted to the Secretary as requested under the notice under paragraph (1), the Secretary shall establish and publish in the Federal Register, health service area boundaries which include such areas. The Secretary shall notify the Governor of each State in which is located a health service area the boundary for which is established under this clause of the boundaries established. In carrying out the requirement of this clause, the Secretary may make such revisions in boundaries submitted under subparagraph (A) as he determines are necessary to meet the requirement of subsection (a) of this section for the establishment of health service areas throughout the United States.

(4) The Secretary shall review on a continuing basis and at the request of any Governor or designated health systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that a boundary for a health service area no longer meets the requirements of subsection (a) of this section, he may revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii) for the establishment of boundaries of health service areas which include areas not included in boundaries submitted by the Governors. If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate health systems agency or agencies designated under part B of this subchapter and the appropriate Statewide Health Coordinating Council established under part C of this subchapter. A request for boundary revision shall be made only after consultation with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate designated health systems agencies, and the appropriate established Statewide Health Coordinating Council and shall include the com-

ments concerning the revision made by the entities consulted in requesting the revision.

(5) Within one year after January 4, 1975, the Secretary shall complete the procedures for the initial establishment of the boundaries of health service areas which (except as provided in section 300n–4 of this title) include the geographic area of all the States.

(c) Waiver of requirements.

Notwithstanding any other requirement of this section, an area—

(1) for which has been developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title, and

(2) which otherwise meets the requirements of subsection (a) of this section,

shall be designated by the Secretary as a health service area unless the Governor of any State in which such area is located, upon a finding that another area is a more appropriate region for the effective planning and development of health resources, waives such requirement. (July 1, 1944, ch. 373, title XV, § 1511, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2229.)

REFERENCES IN TEXT

Reference to section "300n–4" of this title in subsec. (b)(5) covering the exception to the rule that the boundaries of health service areas include the geographic areas of all the States was probably intended to read section "300n–5" of this title in view of the content of the sections involved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*–4 of this title.

§ 300*l*–1. Health systems agency.

(a) Definition.

For purposes of this subchapter, the term "health systems agency" means an entity which is organized and operated in the manner described in subsection (b) of this section and which is capable, as determined by the Secretary, of performing each of the functions described in section 300*l*–2 of this title. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) of this section and section 300*l*–2 of this title.

(b) Legal structure; staff; governing body; responsibilities; composition; limitation of individual liability; acceptance of contributions; reports.

(1) A health systems agency for a health service area shall be—

(A) a nonprofit private corporation (or similar legal mechanism such as a public benefit corporation) which is incorporated in the State in which the largest part of the population of the health service area resides, which is not a subsidiary of, or otherwise controlled by, any other private or public corporation or other legal entity, and which only engages in health planning and development functions;

(B) a public regional planning body if (i) it has a governing board composed of a majority of elected officials of units of general local government or it is authorized by State law (in effect before January 4, 1975) to carry out health planning and review functions such as those described in section 300*l*–2 of this title, and (ii) its planning area is identical to the health service area; or

(C) a single unit of general local government if the area of the jurisdiction of that unit is identical to the health service area.

A health systems agency may not be an educational institution or operate such an institution.

(2)(A) A health systems agency shall have a staff which provides the agency with expertise in at least the following: (i) Administration, (ii) the gathering and analysis of data, (iii) health planning, and (iv) development and use of health resources. The functions of planning and of development of health resources shall be conducted by staff with skills appropriate to each function.

(B) The size of the professional staff of any health systems agency shall be not less than five, except that if the quotient of the population (rounded to the next highest one hundred thousand) of the health service area which the agency serves divided by one hundred thousand is greater than five, the minimum size of the professional staff shall be the lesser of (i) such quotient, or (ii) twenty-five. The members of the staff shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health service area for similar positions in other public or private health service entities. If necessary for the performance of its functions, a health systems agency may employ consultants and may contract with individuals and entities for the provision of services. Compensation for consultants and for contracted services shall be established in accordance with standards established by regulation by the Secretary.

(3)(A) A health systems agency which is a public regional planning body or unit of general local government shall, in addition to any other governing body, have a governing body for health planning, which is established in accordance with subparagraph (C), which shall have the responsibilities prescribed by subparagraph (B), and which has exclusive authority to perform for the agency the functions described in section 300*l*–2 of this title. Any other health systems agency shall have a governing body composed, in accordance with subparagraph (C), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an "executive committee") composed, in accordance with subparagraph (C), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action (other than the establishment and revision of the plans referred to in subparagraph (B)(ii)) as the governing body is authorized to take.

(B) The governing body—

(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 300n–1 of this

title) applicable to its functions under subsections (e), (f), and (g) of section 300*l*–2 of this title;

(ii) shall be responsible for the establishment of the health systems plan and annual implementation plan required by section 300*l*–2(b) of this title;

(iii) shall be responsible for the approval of grants and contracts made and entered into under section 300*l*–2(c)(3) of this title;

(iv) shall be responsible for the approval of all actions taken pursuant to subsections (e), (f), (g), and (h), of section 300*l*–2 of this title;

(v) shall (I) issue an annual report concerning the activities of the agency, (II) include in that report the health systems plan and annual implementation plan developed by the agency, and a listing of the agency's income, expenditures, assets, and liabilities, and (III) make the report readily available to the residents of the health service area and the various communications media serving such area;

(vi) shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

(vii) shall meet at least once in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets at least twice in that year; and

(viii) shall (I) conduct its business meetings in public, (II) give adequate notice to the public of such meetings, and (III) make its records and data available, upon request, to the public.

The governing body (and executive committee (if any)) of a health systems agency shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice to all of its members and at which a quorum is in attendance. A quorum for a governing body and executive committee shall be not less than one-half of its members.

(C) The membership of the governing body and the executive committee (if any) of an agency shall meet the following requirements:

(i) A majority (but not more than 60 per centum of the members) shall be residents of the health service area served by the entity who are consumers of health care and who are not (nor within the twelve months preceding appointment been) providers of health care and who are broadly representative of the social, economic, linguistic and racial populations, geographic areas of the health service area, and major purchasers of health care.

(ii) The remainder of the members shall be residents of the health service area served by the agency who are providers of health care and who represent (I) physicians (particularly practicing physicians) dentists, nurses, and other health professionals, (II) health care institutions (particularly hospitals, long-term care facilities, and health maintenance organizations), (III) health care insurers, (IV) health professional schools, and (V) the allied health professions. Not less than one-third of the providers of health care who are members of the governing body or executive committee of a health systems agency shall be direct providers of health care (as described in section 300n(3) of this title).

(iii) The membership shall—

(I) include (either through consumer or provider members) public elected officials and other representatives of governmental authorities in the agency's health service area and representatives of public and private agencies in the area concerned with health,

(II) include a percentage of individuals who reside in nonmetropolitan areas within the health service area which percentage is equal to the percentage of residents of the area who reside in nonmetropolitan areas, and

(III) if the health systems agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans' Administration, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated for such purpose, and if the agency serves an area in which there is located one or more qualified health maintenance organizations (within the meaning of section 300e–9 of this title), include at least one member who is representative of such organizations.

(iv) If, in the exercise of its functions, a governing body or executive committee appoints a subcommittee of its members or an advisory group, it shall to the extent practicable, make its appointments to any such subcommittee or group in such a manner as to provide the representation on such subcommittee or group described in this subparagraph.

(4) No individual who, as a member or employee of a health systems agency, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by, the agency under this subchapter be liable for the payment of damages under any law of the United States or any State (or political subdivision thereof) if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it.

(5) No health systems agency may accept any funds or contributions of services or facilities from any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources unless, in the case of an entity, it is an organization described in section 509(a) of Title 26 and is not directly engaged in the provision of health care in the health service area of the agency. For purposes of this paragraph, an entity shall not be considered to have such an interest solely on the basis of its providing (directly or indirectly) health care for its employees.

(6) Each health system agency shall—

(A) make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(B) provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this subchapter and section 300t of this title; and

(C) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this subchapter and section 300t of this title.

(c) Subarea councils.

A health systems agency may establish subarea advisory councils representing parts of the agencies' health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b) (3) (C) of this section. (July 1, 1944, ch. 373, title XV, § 1512, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2232.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–3, 300*l*–4, 300n–2, 300n–4, 300t of this title.

§ 300*l*–2. Functions of health systems agencies.

(a) Health planning as primary responsibility.

For the purpose of—

(1) improving the health of residents of a health service area,

(2) increasing the accessibility (including overcoming geographic, architectural, and transportation barriers), acceptability, continuity, and quality of the health services provided them,

(3) restraining increases in the cost of providing them health services, and

(4) preventing unnecessary duplication of health resources,

each health systems agency shall have as its primary responsibility the the[1] provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry out the functions described in subsection (b) through (g) of this section.

(b) Health Systems and Annual Implementation Plans; establishment; review.

In providing health planning and resources development for its health service area, a health systems agency shall perform the following functions:

(1) The agency shall assemble and analyze data concerning—

(A) the status (and its determinants) of the health of the residents of its health service area,

(B) the status of the health care delivery system in the area and the use of that system by the residents of the area,

(C) the effect the area's health care delivery system has on the health of the residents of the area,

(D) the number, type, and location of the area's health resources, including health services, manpower, and facilities,

(E) the patterns of utilization of the area's health resources, and

(F) the environmental and occupational exposure factors affecting immediate and long-term health conditions.

In carrying out this paragraph, the agency shall to the maximum extent practicable use existing data (including data developed under Federal health programs) and coordinate its activities with the cooperative system provided for under section 242k(e) of this title.

(2) The agency shall, after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary under section 300k–1 of this title, the priorities set forth in section 300k–2 of this title, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this subchapter referred to as the "HSP") which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account and is consistent with the national guidelines for health planning policy issued by the Secretary under section 300k–1 of this title respecting supply, distribution, and organization of health resources and services. Before establishing an HSP, a health systems agency shall conduct a public hearing on the proposed HSP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed HSP, the time and place of the hearing, the place at which interested persons may consult the HSP in advance of the hearing, and the place and period during which to submit written comments to the agency on the HSP.

(3) The agency shall establish, annually review, and amend as necessary an annual implementation plan (hereinafter in this subchapter referred to as the "AIP") which describes objectives which will achieve the goals of the HSP and priorities among the objectives. In establishing the AIP, the agency shall give priority to those objectives which will maximally improve the health of the residents of the area, as determined on the basis

[1] So in original.

of the relation of the costs of attaining such objectives to their benefits, and which are fitted to the special needs of the area.

(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the AIP.

(c) Implementation of Plans; grants and contracts; restrictions.

A health systems agency shall implement its HSP and AIP, and in implementing the plans it shall perform at least the following functions:

(1) The agency shall seek, to the extent practicable, to implement its HSP and AIP with the assistance of individuals and public and private entities in its health service area.

(2) The agency may provide, in accordance with the priorities established in the AIP, technical assistance to individuals and public and private entities for the development of projects and programs which the agency determines are necessary to achieve the health systems described in the HSP, including assistance in meeting the requirements of the agency prescribed under section 300n–1(b) of this title.

(3) The agency shall, in accordance with the priorities established in the AIP, make grants to public and nonprofit private entities and enter into contracts with individuals and public and nonprofit private entities to assist them in planning and developing projects and programs which the agency determines are necessary for the achievement of the health systems described in the HSP. Such grants and contracts shall be made from the Area Health Services Development Fund of the agency established with funds provided under grants made under section 300t of this title. No grants or contract under this subsection may be used (A) to pay the costs incurred by an entity or individual in the delivery of health services (as defined in regulations of the Secretary), or (B) for the cost of construction or modernization of medical facilities. No single grant or contract made or entered into under this paragraph shall be available for obligation beyond the one year period beginning on the date the grant or contract was made or entered into. If an individual or entity receives a grant or contract under this paragraph for a project or program, such individual or entity may receive only one more such grant or contract for such project or program.

(d) Coordination of activities with other agencies.

Each health systems agency shall coordinate its activities with—

(1) each Professional Standards Review Organization (designated under section 1320c–1 of this title),

(2) entities referred to in paragraphs (1) and (2) of section 3334(a) of this title and regional and local entities the views of which are required to be considered under regulations prescribed under section 4233 of this title to carry out section 4231(b) of this title,

(3) other appropriate general or special purpose regional planning or administrative agencies, and

(4) any other appropriate entity,

in the health system agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health system will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

(e) Approval of use of federal funds.

(1)(A) Except as provided in subparagraph (B), each health systems agency shall review and approve or disapprove each proposed use within its health service area of Federal funds—

(i) appropriated under this chapter, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for grants, contracts, loans, or loan guarantees for the development, expansion, or support of health resources; or

(ii) made available by the State in which the health service area is located (from an allotment to the State under an Act referred to in clause (i)) for grants or contracts for the development, expansion, or support of health resources.

(B) A health systems agency shall not review and approve or disapprove the proposed use within its health service area of Federal funds appropriated for grants or contracts under subchapter III, V, or VI of this chapter unless the grants or contracts are to be made, entered into, or used to support the development of health resources intended for use in the health service area or the delivery of health services. In the case of a proposed use within the health service area of a health systems agency of Federal funds described in subparagraph (A) by an Indian tribe or inter-tribal Indian organization for any program or project which will be located within or will specifically serve—

(i) a federally-recognized Indian reservation.

(ii) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

(iii) a Native Village in Alaska (as defined in section 1602(c) of Title 43),

a health systems agency shall only review and comment on such proposed use.

(2) Notwithstanding any other provision of this chapter or any other Act referred to in paragraph (1), the Secretary shall allow a health systems agency sixty days to make the review required by such paragraph. If an agency disapproves a proposed use in its health service area of Federal funds described in paragraph (1), the Secretary may not make such Federal funds available for such use until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secre-

tary shall give the appropriate State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Secretary its comments on the decision. The Secretary, after taking into consideration such State agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision.

(3) Each health systems agency shall provide each Indian tribe or inter-tribal Indian organization which is located within the agency's health service area information respecting the availability of the Federal funds described in the first sentence of this subsection.

(f) Recommendations for new institutional health services.

To assist State health planning and development agencies in carrying out their functions under paragraphs (4) and (5) of section 300m–2(a) of this title each health systems agency shall review and make recommendations to the appropriate State health planning and development agency respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency.

(g) Institutional health services, review.

(1) Except as provided in paragraph (2), each health systems agency shall review on a periodic basis (but at least every five years) all institutional health services offered in the health service area of the agency and shall make recommendations to the State health planning and development agency designated under section 300m of this title for each State in which the health systems agency's health service area is located respecting the appropriateness in the area of such services.

(2) A health systems agency shall complete its initial review of existing institutional health services within three years after the date of the agency's designation under section 300*l*–4(c) of this title.

(h) Recommendations of projects to state health planning and development agencies.

Each health systems agency shall annually recommend to the State health planning and development agency designated for each State in which the health systems agency's health service area is located (1) projects for the modernization, construction, and conversion of medical facilities in the agency's health service area which projects will achieve the HSP and AIP of the health systems agency, and (2) priorities among such projects. (July 1, 1944, ch. 373, title XV, § 1513, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2235.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (e)(1)(A)(i), is classified to section 2681 et seq. of this title.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in subsec. (e)(1)(A)(i), is classified principally to section 4551 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–1, 300*l*–3, 300*l*–4, 300m–1, 300m–2, 300n–1 to 300n–5, 300o–3, 300p, 300t of this title.

§ 300*l*–3. Assistance to entities desiring to be designated as health systems agencies.

The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to nonprofit private entities (including entities presently receiving financial assistance under section 246(b) of this title or subchapter VII of this chapter or as experimental health service delivery systems under section 242b of this title) which—

(1) express a desire to be designated as health systems agencies, and

(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 300*l*–1 and 300*l*–2 of this title,

to assist such entities in developing applications to be submitted to the Secretary under section 300*l*–4 of this title and otherwise in preparing to meet the requirements of this part for designation as a health systems agency. (July 1, 1944, ch. 373, title XV, § 1514, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2239.)

§ 300*l*–4. Designation of health systems agencies.

(a) Agreements; time limitation.

At the earliest practicable date after the establishment under section 300*l* of this title of health service areas (but not later than eighteen months after January 4, 1975) the Secretary shall enter into agreements in accordance with this section for the designation of health systems agencies for such areas.

(b) Conditional designation.

(1) The Secretary may enter into agreements with entities under which the entities would be designated as the health systems agencies for health service areas on a conditional basis with a view to determining their ability to meet the requirements of section 300*l*–1(b) of this title, and their capacity to perform the functions prescribed by section 300*l*–2 of this title.

(2) During any period of conditional designation (which may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 300*l*–1(b) of this title and perform only such of the functions prescribed by section 300*l*–2 of this title as he determines such entity to be capable of meeting and performing. The number and type of such requirements and functions shall, during the period of conditional designation, be progressively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c) of this section.

(3) Any agreement under which any entity is conditionally designated as a health systems agency may be terminated by such entity upon ninety days

notice to the Secretary or by the Secretary upon ninety days notice to such entity.

(4) The Secretary may not enter into an agreement with any entity under paragraph (1) for conditional designation as a health systems agency for a health service area until—

(A) the entity has submitted an application for such designation which contains assurances satisfactory to the Secretary that upon completion of the period of conditional designation the applicant will be organized and operated in the manner described in section 300l–1(b) of this title and will be qualified to perform the functions prescribed by section 300l–2 of this title;

(B) a plan for the orderly assumption and implementation of the functions of a health systems agency has been received from the applicant and approved by the Secretary; and

(C) the Secretary has consulted with the Governor of each State in which such health service area is located and with such other State and local officials as he may deem appropriate, with respect to such designation.

In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by each entity which has developed a plan referred to in section 246(b) of this title for all or part of the health service area with respect to which the application was submitted, and each regional medical program established in such area unler subchapter VII of this chapter.

(c) Agreements on a determination of capability; period of designation; renewal.

(1) The Secretary shall enter into an agreement with an entity for its designation as a health systems agency if, on the basis of an application under paragraph (2) (and, in the case of an entity conditionally designated, on the basis of its performance during a period of conditional designation under subsection (b) of this section as a health systems agency for a health service area), the Secretary determines that such entity is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency. Any such agreement under this subsection with an entity may be renewed in accordance with paragraph (3), shall contain such provisions respecting the requirements of sections 300l–1(b) and 300l–2 of this title and such conditions designed to carry out the purpose of this subchapter, as the Secretary may prescribe, and shall be for a term of not to exceed twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the entity at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

(2) The Secretary may not enter into an agreement with any entity under paragraph (1) for designation as a health systems agency for a health service area unless the entity has submitted an application to the Secretary for designation as a health systems agency, and the Governor of each State in which the area is located has been consulted respecting such designation of such entity. Such an application shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 300l–1(b) of this title and is qualified to perform or is performing the functions prescribed by section 300l–2 of this title. In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by (A) each entity which has developed a plan referred to in section 246(b) of this title for all or part of the health service area with respect to which the application was submitted, and (B) each regional medical program established in such area under subchapter VII of this chapter.

(3) An agreement under this subsection for the designation of a health systems agency may be renewed by the Secretary for a period not to exceed twelve months if upon review (as provided in section 300n–4 of this title) of the agency's operation and performance of its functions, he determines that it has fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 300l–2 of this title and continues to meet the requirements of section 300l–1(b) of this title.

(d) Substitution on termination of agreements.

If a designation under subsection (b) or (c) of this section of a health systems agency for a health services area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) of this section (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health system agency for such area. (July 1, 1944, ch. 373, title XV, § 1515, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2239.)

AUTHORIZATION OF APPROPRIATIONS

Section 5(a)(2) of Pub. L. 93–641 provided that: "There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 304 of the Public Health Service Act [section 242b of this title] for experimental health services delivery systems, section 314(b) of such Act, and title IX of such Act [section 246(b) of this title, and subchapter VII of this chapter], except that no grant made with funds appropriated under this paragraph shall be available for obligation beyond the later of (A) June 30, 1976, or (B) three months after the date on which a health systems agency has been designated under section 1415 of such Act [probably refers to section 1515 of such Act which is classified to this section] for a health service area which includes the area of the entity for which a grant is made under such section 304, 314(b), or title IX [section 242b, 246(b), or subchapter VII of this chapter]."

REFERENCE TO AGENCY OR ORGANIZATION WHICH DEVELOPED A COMPREHENSIVE REGIONAL, METROPOLITAN OR OTHER LOCAL AREA PLAN OR PLANS.

Section 5(c)(2) of Pub. L. 93–641 provided that: "(c) A reference in any law or regulation—

* * * * *

"(2) to an agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act [section 246(b) of this title] shall if all or part of the area covered by such plan or plans is within a health service area established under section 1511 of the Public Health Service Act [sec-

tion 300*l* of this title] be considered a reference to the health systems agency designated under section 1515 of such Act [this section] for such health service area; and"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*–2, 300*l*–3, 300*l*–5, 300t of this title.

§ 300*l*–5. Planning grants.

(a) Conditions; restriction on use of funds.

The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 300*l*–4 of this title. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning, and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be). A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

(b) Maximum and minimum grants.

(1) The amount of any grant under subsection (a) of this section to a health systems agency designated under section 300*l*–4(b) of this title shall be determined by the Secretary. The amount of any grant under subsection (a) of this section to any health systems agency designated under section 300*l*–4(c) of this title shall be the lesser of—

(A) the product of $0.50 and the population of the health service area for which the agency is designated, or

(B) $3,750,000,

unless the agency would receive a greater amount under paragraph (2) or (3).

(2)(A) If the application of a health systems agency for such a grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

(i) the amount determined under paragraph (1), and

(ii) the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of $0.25 and the population of the health service area for which the agency is designated.

(B) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) of this section which is computed on the basis of the formula prescribed by subparagraph (A) shall—

(i) not include any funds contributed to the agency by any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources, and

(ii) be funds which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

(3) The amount of a grant under subsection (a) of this section to a health systems agency designated under section 300*l*–4(c) of this title may not be less than $175,000.

(c) Authorization of appropriations.

(1) For the purpose of making payments pursuant to grants made under subsection (a) of this section, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, $90,000,000 for the fiscal year ending June 30, 1976, and $125,000,000 for the fiscal year ending June 30, 1977.

(2) Notwithstanding subsection (b) of this section, if the total of the grants to be made under this section to health systems agencies for any fiscal year exceeds the total of the amounts appropriated under paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health systems agency shall be an amount which bears the same ratio to the amount determined for that agency for that fiscal year under subsection (b) of this section as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the total amount required to make grants to all health systems agencies in accordance with the applicable provision of subsection (b) of this section; except that the amount of any grant to a health systems agency for any fiscal year shall not be less than $175,000, unless the amount appropriated for that fiscal year under paragraph (1) is less than the amount required to make such a grant to each health systems agency. (July 1, 1944, ch. 373, title XV, § 1516, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m–3, 300n–5 of this title.

PART C.—STATE HEALTH PLANNING AND DEVELOPMENT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k–1, 300*l* of this title.

§ 300m. Designation of State health planning and development agencies.

(a) Authority of Secretary to enter into agreements.

For the purpose of the performance within each State of the health planning and development functions prescribed by section 300m–2 of this title, the Secretary shall enter into and renew agreements (described in subsection (b) of this section) for the designation of a State health planning and development agency for each State other than a State for which the Secretary may not under subsection (d) of this section enter into, continue in effect, or renew such an agreement.

(b) State administrative program; Governor as the authority to select agency; requirements; conditional designation; period of agreement; termination; designation of State agency for the State; termination and renewal.

(1) A designation agreement under subsection (a) of this section is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this part referred to as the "State Agency") to administer the State administrative program prescribed by section 300m–1 of this title and to carry out the State's health planning and development functions prescribed by section 300m–2 of this title. The Secretary may not enter into such an agreement with the Governor of a State unless—

(A) there has been submitted by the State a State administrative program which has been approved by the Secretary,

(B) an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 300m–2 of this title, and

(C) in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 300m—3 of this title.

(2)(A) The agreement entered into with a Governor of a State under subsection (a) of this section may provide for the designation of a State Agency on a conditional basis with a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 300m–2 of this title. The Secretary shall require as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

(B) The period of an agreement described in subparagraph (A) may not exceed twenty-four months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 300m–2 of this title as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

(C) Any agreement with a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

(3) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed twelve months, except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the Governor as the Secretary may by regulation prescribe, if the Secretary determines that the designated State Agency is not complying with or effectively carrying out the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

(4) An agreement entered into under paragraph (3) for the designation of a State Agency may be renewed by the Secretary for a period not to exceed twelve months if he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 300m–1 of this title.

(c) Agreements for substitution.

If a designation agreement with the Governor of a State entered into under subsection (b)(2) or (b)(3) of this section is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b)(2), or (b)(3) of this section (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

(d) Suspension of grants.

If, upon the expiration of the fourth fiscal year which begins after 1975, an agreement under this section for the designation of a State Agency for a State is not in effect, the Secretary may not make any allotment, grant, loan, or loan guarantee, or enter into any contract, under this chapter, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect. (July 1, 1944, ch. 373, title XV, § 1521, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2242.)

REFERENCES IN TEXT

The Community Mental Health Center Act, referred to in subsec. (d), is classified to section 2681 et seq. of this title.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, also

referred to in subsec. (d), is classified principally to section 4551 et seq. of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 5(a)(1) of Pub. L. 93–641 provided that:

"There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 314(a) of the Public Health Service Act [section 246(a) of this title], except that no grant made to a State with funds appropriated under this paragraph shall be available for obligation beyond—

"(A) three months after the date on which a State health planning and development agency is designated for such State under section 1421 of such Act [probably refers to section 1521 of such Act which is classified to this section], or

"(B) June 30, 1976,

whichever is later."

REFERENCE TO STATE AGENCY ADMINISTERING OR SUPERVISING ADMINISTRATION OF STATE'S HEALTH PLANNING FUNCTIONS UNDER APPROVED STATE PLAN

Section 5(c)(1) of Pub. L. 93–641 provided that:

"A reference in any law or regulation—

"(1) to the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act [246(a) of this title] shall in the case of a State for which a State Health planning and development agency has been designated under section 1521 of such Act [this section] be considered a reference to the State agency designated under such section 1521."

REFERENCE TO REGIONAL MEDICAL PROGRAM ASSISTED FOR RESEARCH ETC., IN HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES

Section 5(c)(3) of Pub. L. 93–641 provided that:

"(c) A reference in any law or regulation—

* * * * *

"(3) to a regional medical program assisted under title IX of the Public Health Service Act [subchapter VII of this chapter] shall if the program is located in A State for which a State health planning and development agency has been designated under section 1521 of the Public Health Service Act [this section] be considered a reference to such State agency."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–2, 300m–2, 300m–3, 300m–4, 300m–5, 300n–5, 2689u of this title.

§ 300m–1. State administrative program.

(a) Conditions for approval by Secretary.

A State administrative program (hereinafter in this section referred to as the "State Program") is a program for the performance within the State by its State Agency of the functions prescribed by section 300m–2 of this title. The Secretary may not approve a State Program for a State unless it—

(1) meets the requirements of subsection (b) of this section;

(2) has been submitted to the Secretary by the Governor of the State at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary; and

(3) has been submitted to the Secretary only after the Governor of the State has afforded to the general public of the State a reasonable opportunity for a presentation of views on the State Program.

(b) Requisite features of program.

The State Program of a State must—

(1) provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 300m–2 of this title and specify the State Agency of the State as the sole agency for the performance of such functions (except as provided in subsection (b) of such section) and for the administration of the State Program;

(2) contain or be supported by satisfactory evidence that the State Agency has under State law the authority to carry out such functions and the State Program in accordance with this part and contain a current budget for the operation of the State Agency;

(3) provide for adequate consultation with, and authority for, the Statewide Health Coordinating Council (prescribed by section 300m–3 of this title), in carrying out such functions and the State Program;

(4)(A) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of such functions and the State Program, and require the State Agency to have a professional staff for planning and a professional staff for development, which staffs shall be of such size and meet such qualifications as the Secretary may prescribe;

(B) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of such functions and the State Program, including methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 4728(a) of this title, but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(5) require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall conform to the requirements of section 300n–1 of this title;

(6) require the State Agency to (A) conduct its business meetings in public, (B) give adequate notice to the public of such meetings, and (C) make its records and data available, upon request, to the public;

(7)(A) provide for the coordination (in accordance with regulations of the Secretary) with the cooperative system provided for under section 242k(e) of this title of the activities of the State Agency for the collection, retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, and (B) require providers of health care doing business in the State to make statistical and other reports of such information to the State Agency;

(8) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

(9) provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

(10) require the State Agency to make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(11) require the State Agency to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this subchapter;

(12) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under this subchapter; and

(13) provide that if the State Agency makes a decision in the performance of a function under paragraph (3), (4), (5), or (6) of section 300m–2 (a) of this title or under subchapter XIV of this chapter which is inconsistent with a recommendation made under subsection (f), (g), or (h) of section 300*l*–2 of this title by a health systems agency within the State—

(A) such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

(B) the decision of the reviewing agency shall for purposes of this subchapter and subchapter XIV of this chapter be considered the decision of the State health planning and development agency.

(c) Review by Secretary.

The Secretary shall approve any State Program and any modification thereof which complies with subsections (a) and (b) of this section. The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each State Program approved by him. Such review shall be conducted not less often than once each year. (July 1, 1944, ch. 373, title XV, § 1522, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m, 300m–5, 300n–2, 300n–4, 300o–2 of this title.

§ 300m–2. State health planning and development functions.

Each State Agency of a State designated under section 300m(b)(3) of this title shall, except as authorized under subsection (b) of this section, perform within the State the following functions:

(1) Conduct the health planning activities of the State and implement those parts of the State health plan (under section 300m–3(c)(2) of this title) and the plans of the health systems agencies within the State which relate to the government of the State.

(2) Prepare and review and revise as necessary (but at least annually) a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such preliminary plan may, as found necessary by the State Agency, contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with state-wide health needs. Such preliminary plan shall be submitted to the Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 300m–3(c) of this title.

(3) Assist the Statewide Health Coordinating Council of the State in the review of the State medical facilities plan required under section 300o–2 of this title, and in the performance of its functions generally.

(4)(A) Serve as the designated planning agency of the State for the purposes of section 1320a–1 of this title if the State has made an agreement pursuant to such section, and (B) administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State and which is satisfactory to the Secretary. Such program shall provide for review and determination of need prior to the time such services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for such offering or development, and provide that only those services, facilities, and organizations found to be needed shall be offered or developed in the State. In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 300*l*–2(f) of this title.

(5) After consideration of recommendations submitted by health systems agencies under section 300*l*–2(f) of this title respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

(6) Review on a periodic basis (but not less often than every five years) all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies under section 300*l*–2(g) of this title respecting the appropriateness of such services, make public its findings.

(b)(1) Any function described in subsection (a) of this section may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

(2) The requirement of paragraph (4)(B) of subsection (a) of this section shall not apply to a State Agency of a State until the expiration of the first

regular session of the legislature of such State which begins after January 4, 1975.

(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date of a health systems agency has made its recommendation under section 300*l*–2(g) of this title with respect to the appropriateness of the service.

(c) If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), (6), or (7) of subsection (a) of this section which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency. (July 1, 1944, ch. 373, title XV, § 1523, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2246.)

CODIFICATION

Section 300*l*–2(f) of this title, referred to in subsec. (a)(5), was, in the original, section 1413(f) which has been translated editorially as 300*l*–2(f) as the probable intent of Congress, since Congress did not enact a section 1413, and such translations conform to House Report No. 93–640, p. 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–2, 300m, 300m–1, 300m–3, 300m–4, 300n–1 to 300n–5, 300o–2 of this title.

§ 300m–3. Statewide Health Coordinating Council.

(a) Advisory function.

A State health planning and development agency designated under section 300m of this title shall be advised by a Statewide Health Coordinating Council (hereinafter in this section referred to as the "SHCC") which (1) is organized in the manner described by subsection (b) of this section, and (2) performs the functions listed in subsection (c) of this section.

(b) Membership; chairman; conduct of meetings.

(1) A SHCC of a State shall be composed in the following manner:

(A)(i) A SHCC shall have no fewer than sixteen representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.

(ii) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

(iii) Each such health systems agency shall be entitled to at least two representatives on the SHCC. Of the representatives of a health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

(B) In addition to the appointments made under subparagraph (A), the Governor of the State may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that (i) the number of persons appointed to the SHCC under this subparagraph may not exceed 40 per centum of the total membership of the SHCC, and (ii) a majority of the persons appointed by the Governor shall be consumers of health care who are not also providers of health care.

(C) Not less than one-third of the providers of health care who are members of a SHCC shall be direct providers of health care (as described in section 300n(3) of this title).

(D) Where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State, the SHCC shall, in addition to the appointed members, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated as a representative of such facilities.

(2) The SHCC shall select from among its members a chairman.

(3) The SHCC shall conduct all of its business meetings in public, and shall meet at least once in each calendar quarter of a year.

(c) Other functions.

A SHCC shall perform the following functions:

(1) Review annually and coordinate the HSP and AIP of each health systems agency within the State and report to the Secretary, for purposes of his review under section 300n–4(c) of this title, its comments on such HSP and AIP.

(2)(A) Prepare and review and revise as necessary (but at least annually) a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Each health systems agency which participates in the SHCC shall make available to the SHCC its HSP for each year for integration into the State health plan and shall, as required by the SHCC, revise its HSP to achieve appropriate coordination with the HSP's of the other agencies which participate in the SHCC or to deal more effectively with statewide health needs.

(B) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State agency under section 300m–2(a)(2) of this title, and shall conduct a public hearing on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.

(3) Review annually the budget of each such health systems agency and report to the Secretary, for purposes of his review under section

300n–4(a) of this title, its comments on such budget.

(4) Review applications submitted by such health systems agencies for grants under sections 300*l*–5 and 300t of this title and report to the Secretary its comments on such applications.

(5) Advise the State Agency of the State generally on the performance of its functions.

(6) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of any funds under allotments made to States under this chapter, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Notwithstanding any other provision of this chapter or any other Act referred to in the preceding sentence, the Secretary shall allow a SHCC sixty days to make the review required by such sentence. If a SHCC disapproves such a State plan or application, the Secretary may not make Federal funds available under such State plan or application until he has made, upon request of the Governor of the State which submitted such plan or application or another agency of such State, a review of the SHCC decision. If after such review the Secretary decides to make such funds available, the decision by the Secretary to make such funds available shall be submitted to the SHCC and shall contain a detailed statement of the reasons for the decision.

(July 1, 1944, ch. 373, title XV, § 1524, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2247.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (c)(6), is classified to section 2681 et seq., of this title.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in subsec. (c)(6), is classified principally to section 4551 et seq., of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 246, 300k–3, 300m, 300m–1, 300m–2, 300n–4, 300n–5, 300o–2, 300s–1, 2689t of this title.

§ 300m–4. Grants for State health planning and development.

(a) Limitation.

The Secretary shall make grants to State health planning and development agencies designated under subsection (b)(2) or (b)(3) of section 300m of this title to assist them in meeting the costs of their operation. Any grant made under this subsection to a State Agency shall be available for obligation only for a period not to exceed the period for which its designation agreement is entered into or renewed. The amount of any grant made under this subsection shall be determined by the Secretary, except that no grant to a designated State Agency may exceed 75 per centum of its operation costs (as determined under regulations of the Secretary) during the period for which the grant is available for obligation.

(b) Terms and conditions.

Grants under subsection (a) of this section shall be made on such terms and conditions as the Secretary may prescribe; except that the Secretary may not make a grant to a State Agency unless he receives satisfactory assurances that the State Agency will expend in performing the functions prescribed by section 300m–2 of this title during the fiscal year for which the grant is sought an amount of funds from non-Federal sources which is at least as great as the average amount of funds expended, in the three years immediately preceding the fiscal year for which such grant is sought, by the State, for which such State Agency has been designated, for the purposes for which funds under such grant may be used (excluding expenditures of a nonrecurring nature).

(c) Authorization of appropriations.

For the purpose of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $35,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XV, § 1525, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2249.)

§ 300m–5. Grants for rate regulation.

(a) Limitation.

For the purpose of demonstrating the effectiveness of State Agencies regulating rates for the provision of health care, the Secretary may make to a State Agency designated, under an agreement entered into under section 300m(b)(3) of this title, for a State which (in accordance with regulations prescribed by the Secretary) has indicated an intent to regulate (not later than six months after January 4, 1975) rates for the provision of health care within the State. Not more than six State Agencies may receive grants under this subsection.

(b) Requirements.

(1) A State Agency which receives a grant under subsection (a) of this section shall—

(A) provide the Secretary satisfactory evidence that the State Agency has under State law the authority to carry out rate regulation functions in accordance with this section and provide the Secretary a current budget for the performance of such functions by it;

(B) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibility in the performance of such functions, and shall have a professional staff for rate regulation, which staff shall be headed by a Director;

(C) provide for such methods of administration as found by the Secretary to be necessary for the proper and efficient administration of such functions;

(D) perform its functions in accordance with procedures established and published by it, which procedures shall conform to the requirements of section 300n–1 of this title;

(E) comply with the requirements prescribed by paragraphs (6) through (12) of section 300m–1

(b) of this title with respect to the functions prescribed by subsection (a) of this section;

(F) provide for the establishment of a procedure under which the State Agency will obtain the recommendation of the appropriate health systems agency prior to conducting a review of the rates charged or proposed to be charged for services; and

(G) meet such other requirements as the Secretary may prescribe.

(2) In prescribing requirements under paragraph (1) of this subsection, the Secretary shall consider the manner in which a State Agency shall perform its functions under a grant under subsection (a) of this section, including whether the State Agency should—

(A) permit those engaged in the delivery of health services to retain savings accruing to them from effective management and cost control,

(B) create incentives at each point in the delivery of health services for utilization of the most economical modes of services feasible,

(C) document the need for and cost implications of each new service for which a determination of reimbursement rates is sought, and

(D) employ for each type or class of person engaged in the delivery of health services—

(i) a unit for determining the reimbursement rates, and

(ii) a base for determining rates of change in the reimbursement rates,

which unit and base are satisfactory to the Secretary.

(c) Terms and conditions.

Grants under subsection (a) of this section shall be made on such terms and conditions as the Secretary may prescribe, except that (1) such a grant shall be available for obligation only during the one-year period beginning on the date such grant was made, and (2) no State Agency may receive more than three grants under subsection (a) of this section.

(d) Reports.

Each State Agency which receives a grant under subsection (a) of this section shall report to the Secretary (in such form and manner as he shall prescribe) on the effectiveness of the rate regulation program assisted by such grant. The Secretary shall report annually to the Congress on the effectiveness of the programs assisted by the grants authorized by subsection (a) of this section.

(e) Authorization of appropriations.

There are authorized to be appropriated to make payments under grants under subsection (a) of this section $4,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XV, § 1526, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2249.)

PART D.—GENERAL PROVISIONS

§ 300n. Definitions.

For purposes of this subchapter:

(1) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(2) The term "Governor" means the chief executive officer of a State or his designee.

(3) The term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(4) the term "health resources" includes health services, health professions personnel, and health facilities, except that such term does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(5) The term "institutional health services" means the health services provided through health care facilities and health maintenance organizations (as such facilities and organizations are defined in regulations prescribed under section 1320a–1 of this title) and includes the entities through which such services are provided. (July 1, 1944, ch. 373, title XV, § 1531, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l–1, 300m–3 of this title.

§ 300n–1. Procedures and criteria for review of proposed health system changes.

(a) In conducting reviews pursuant to subsections (e), (f), and (g) of section 300*l*–2 of this title or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 300m–2 of this title, a State Agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies and States Agencies may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed.

(b) Each health systems agency and State Agency shall include in the procedures required by subsection (a) of this section at least the following:

(1) Written notification to affected persons of the beginning of a review.

(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made.

(3) Provision for persons subject to a review to submit to the agency or state Agency (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review.

(4) Submission of applications (subject to review by a health systems agency or a State Agency) made under this chapter or other provisions of law for Federal financial assistance for health services to the health systems agency or State Agency at such time and in such manner as it may require.

(5) Submission of periodic reports by providers of health services and other persons subject to agency or State Agency review respecting the development of proposals subject to review.

(6) Provision for written findings which state the basis for any final decision or recommendation made bv the agency or State Agency.

(7) Notification of providers of health services and other persons subject to agency or State Agency review of the status of the agency or State Agency review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

(8) Provision for public hearings in the course of agency or State Agency review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and State Agency decisions.

(9) Preparation and publication of regular reports by the agency and State Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency and State Agency (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

(10) Access by the general public to all applications reviewed by the agency and State Agency and to all other written materials pertinent to any agency or State Agency review.

(11) In the case of construction projects, submission to the agency and State Agency by the entities proposing the projects of letters of intent in such detail as may be necessary to inform the agency and State Agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(c) Criteria required by subsection (a) of this section for health systems agency and State Agency review shall include consideration of at least the following:

(1) The relationship of the health services being reviewed to the applicable HSP and AIP.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3) The need that the population served or to be served by such services has for such services.

(4) The availability of alternatives, less costly, or more effective methods of providing such services.

(5) The relationship of services reviewed to the existing health care system of the area in which such services are provided or proposed to be provided.

(6) In the case of health services proposed to be provided, the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alternative uses of such resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, specialty centers, and such other entities as the Secretary may by regulation prescribe.

(8) The special needs and circumstances of health maintenance organizations for which assistance may be provided under subchapter XI of this chapter.

(9) In the case of a construction project—

(A) the costs and methods of the proposed construction, and

(B) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

(July 1, 1944, ch. 373, title XV, § 1532, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–1, 300*l*–2, 300m–1, 300m–5 of this title.

§ 300n–2. Technical assistance.

(a) Designated health systems agencies and State agencies.

The Secretary shall provide (directly or through grants or contracts, or both) to designated health systems agencies and State Agencies (1) assistance in developing their health plans and approaches to planning various types of health services, (2) technical materials, including methodologies, policies, and standards appropriate for use in health planning, and (3) other technical assistance as may be necessary in order that such agencies may properly perform their functions.

(b) Data; planning methodologies; guidelines.

The Secretary shall include in the materials provided under subsection (a) of this section the following:

(1)(A) Specification of the minimum data needed to determine the health status of the residents of a health service area and the determinants of such status.

(B) Specification of the minimum data needed to determine the status of the health resources and services of a health service area.

(C) Specification of the minimum data needed to describe the use of health resources and services within a health service area.

(2) Planning approaches, methodologies, policies, and standards which shall be consistent with the guidelines established by the Secretary under section 300k–1 of this title for appropriate planning and development of health resources, and which shall cover the priorities listed in section 300k–2 of this title.

(3) Guidelines for the organization and operation of health systems agencies and State Agencies including guidelines for—

(A) the structure of a health systems agency, consistent with section 300*l*–1(b) of this title, and of a State Agency, consistent with section 300m–1 of this title;

(B) the conduct of the planning and development processes;

(C) the performance of health systems agency functions in accordance with section 300*l*–2 of this title; and

(D) the performance of State Agency functions in accordance with section 300m–2 of this title.

(c) National health planning information center, establishment.

In order to facilitate the exchange of information concerning health services, health resources, and health planning and resources development practice and methodology, the Secretary shall establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities concerned with health planning and resources development; to provide access to current information on health planning and resources development; and to provide information for use in the analysis of issues and problems related to health planning and resources development.

(d) Operation cost system; cost accounting system; system for calculation of rates; classification system; reporting system.

The Secretary shall establish the following within one year of January 4, 1975:

(1) A uniform system for calculating the aggregate cost of operation and the aggregate volume of services provided by health services institutions as defined by the Secretary in regulations. Such system shall provide for the calculation of the aggregate volume to be based on:

(A) The number of patient days;

(B) The number of patient admissions;

(C) The number of out-patient visits; and

(D) Other relevant factors as determined by the Secretary.

(2) A uniform system for cost accounting and calculating the volume of services provided by health services institutions. Such system shall:

(A) Include the establishment of specific cost centers and, where appropriate, subcost centers.

(B) Include the designation of an appropriate volume factor for each cost center.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions), and different sizes of such types of institutions.

(3) A uniform system for calculating rates to be charged to health insurers and other health institutions payors by health service institutions. Such system shall:

(A) Be based on an all-inclusive rate for various categories of patients (including, but not limited to individuals receiving medical, surgical, pediatric, obstetric, and psychiatric institutional health services).

(B) Provide that such rates reflect the true cost of providing services to each such category of patients. The system shall provide that revenues derived from patients in one category shall not be used to support the provision of services to patients in any other category.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health service institutions) and different sizes of such types of institutions.

(D) Provide that differences in rates to various classes of purchasers (including health insurers, direct service payors, and other health institution payors) be based on justified and documented differences in the costs of operation of health service institutions made possible by the actions of such purchasers.

(4) A classification system for health services institutions. Such classification system shall quantitatively describe and group health services institutions of the various types. Factors included in such classification system shall include—

(A) the number of beds operated by an institution;

(B) the geographic location of an institution;

(C) the operation of a postgraduate physician training program by an institution; and

(D) the complexity of services provided by an institution.

(5) A uniform system for the reporting by health services institutions of—

(A) the aggregate cost of operation and the aggregate volume of services, as calculated in accordance with the system established by the Secretary under paragraph (1);

(B) the costs and volume of services at various cost centers, and subcost centers, as calculated in accordance with the system established by the Secretary under paragraph (2); and

(C) rates, by category of patient and class of purchaser, as calculated in accordance with the system established by the Secretary under paragraph (3).

Such system shall provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions) and different sizes of such institutions.

(July 1, 1944, ch. 373, title XV, § 1533, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2253.)

§ 300n–3. Centers for health planning.

(a) Technical and consulting assistance.

For the purposes of assisting the Secretary in carrying out this subchapter, providing such technical and consulting assistance as health systems agencies and State Agencies may from time to time require, conducting research, studies and analyses of health planning and resources development, and developing health planning approaches, methodologies, policies, and standards, the Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by June 30, 1976.

(b) Requirements.

(1) No grant or contract may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and no grant or contract may be made under this section for operation of a center unless the center meets such requirements.

(2) The requirements referred to in paragraph (1) are as follows:

(A) There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development, and there shall be such additional professional staff as may be appropriate.

(B) The staff of the center shall represent a diversity of relevant disciplines.

(C) Such additional requirements as the Secretary may by regulation prescribe.

(c) Dissemination of planning approaches and methodologies.

Centers assisted under this section (1) may enter into arrangements with health systems agencies and State Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies and State Agencies in performing their functions under section 300*l*–2 or 300m–2 of this title, respectively, and (2) shall use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies such planning approaches, methodoligies,[1] policies and standards as they develop.

(d) Authorization of appropriations.

For the purpose of making payments pursuant to grants and contracts under subsection (a) of this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XV, § 1534, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2255.)

§ 300n–4. Review by the Secretary.

(a) Approval of budget.

The Secretary shall review and approve or disapprove the annual budget of each designated health systems agency and State Agency. In making such review and approval or disapproval the Secretary shall consider the comments of Statewide Health Coordinating Councils submitted under section 300m–3(c)(3) of this title. Information submitted to the Secretary by a health systems agency or a State Agency in connection with the Secretary's review under this subsection shall be made available by the Secretary, upon request, to the appropriate committees (and their subcommittees) of the Congress.

(b) Performance standards.

The Secretary shall prescribe performance standards covering the structure, operation, and performance of the functions of each designated health systems agency and State Agency, and he shall establish a reporting system based on the performance standards that allows for continuous review of the structure, operation, and performance of the functions of such agencies.

(c) Structure, operation, and performance of designated health systems agencies.

The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated health systems agency to determine—

(1) the adequacy of the HSP of the agency for meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable and continuous quality health care at reasonable costs, and the effectiveness of the AIP in achieving the system described in the HSP;

(2) if the structure, operation, and performance of the functions of the agency meet the requirements of sections 300*l*–1(b) and 300*l*–2 of this title;

[1] So in original.

(3) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health service area for which the agency is designated;

(4) the professional credentials and competence of the staff of the agency;

(5) the appropriateness of the data assembled pursuant to section 300*l*–2(b)(1) of this title and the quality of the analyses of such data;

(6) the extent to which technical and financial assistance from the agency have been utilized in an effective manner to achieve goals and objectives of the HSP and the AIP; and

(7) the extent to which it may be demonstrated that—

(A) the health of the residents in the agency's health service area has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in such area has been improved; and

(C) increases in costs of the provision of health care have been restrained.

(d) Structure, operation, and performance of designated State agencies.

The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated State Agency to determine—

(1) the adequacy of the State health plan of the Statewide Health Coordinating Council prepared under section 300m–3(c)(2) of this title in meeting the needs of the residents of the State for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs;

(2) if the structure, operation, and performance of the functions of the State Agency meet the requirements of sections 300m–1 and 300m–2 of this title;

(3) the extent to which the Statewide Health Coordinating Council has a membership meeting, and has performed in a manner consistent with, the requirements of section 300m–3 of this title;

(4) the professional credentials and competence of the staff of the State Agency;

(5) the extent to which financial assistance provided under subchapter XIV of this chapter by the State Agency has been used in an effective manner to achieve the State's health plan under section 300m–3(c)(2) of this title; and

(6) the extent to which it may be demonstrated that—

(A) the health of the residents of the State has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in the State has been improved; and

(C) increases in costs of the provision of health care have been restrained.

(July 1, 1944, ch. 373, title XV, § 1535, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2256.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*–4, 300m–3, 300*o*–2, 300t of this title.

§ 300n–5. Special provisions for certain States and territories.

(a) Any State which—

(1) has no county or municipal public health institution or department, and

(2) has, prior to January 4, 1975, maintained a health planning system which substantially complies with the purposes of this subchapter,

and the Virgin Islands, Guam, the Trust Territories in the Pacific Islands, and American Samoa shall each be considered in accordance with subsection (b) of this section to be a State for purposes of this subchapter.

(b) In the case of an entity which under subsection (a) of this section is to be considered a State for purposes of this subchapter—

(1) no health service area shall be established within it,

(2) no health systems agency shall be designated for it,

(3) the State Agency designated for it under section 300m of this title may, in addition to the functions prescribed by section 300m–2 of this title, perform the functions prescribed by section 300*l*–2 of this title and shall be eligible to receive grants authorized by sections 300*l*–5 and 300t of this title, and

(4) the chief executive office shall appoint the Statewide Health Coordinating Council prescribed by section 300m–3 of this title in accordance with the regulation of the Secretary.

(July 1, 1944, ch. 373, title XV, § 1536, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2257.)

SUBCHAPTER XIV.—HEALTH RESOURCES DEVELOPMENT [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300k–3, 300m–1, 300n–4 of this title; title 40 App. section 214.

PART A.—PURPOSE, STATE PLAN, AND PROJECT APPROVAL

§ 300o. Statement of purpose.

It is the purpose of this subchapter to provide assistance, through allotments under part B of this subchapter, and loans and loan guarantees and interest subsidies under part C of this subchapter, for projects for—

(1) modernization of medical facilities;

(2) construction of new outpatient medical facilities;

(3) construction of new inpatient medical facilities in areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth; and

(4) conversion of existing medical facilities for the provision of new health services,

and to provide assistance, through grants under part D of this subchapter, for construction and modernization projects designed to prevent or eliminate safety hazards in medical facilities or to avoid noncompliance by such facilities with licensure or accreditation standards. (July 1, 1944, ch. 373, title XVI, § 1601, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2258.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300o–2, 300o–3, 300p, 300q–1 of this title.

§ 300o–1. Promulgation of regulations; required provisions.

The Secretary shall by regulation—

(1) prescribe the general manner in which the State Agency of each State shall determine for the State medical facilities plan under section 300o–2 of this title the priority among projects within the State for which assistance is available under this subchapter, based on the relative need of different areas within the State for such projects and giving special consideration—

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under this subchapter general standards of construction, modernization, and equipment for medical facilities of different classes and in different types of location;

(3) prescribe criteria for determining needs for medical facility beds and needs for medical facilities, and for developing plans for the distribution of such beds and facilities;

(4) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization;

(5) require each State medical facilities plan under section 300k–3 of this title to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor; and

(6) prescribe the general manner in which each entity which receives financial assistance under this subchapter or has received financial assistance under this subchapter or subchapter IV of this chapter shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (6) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence. (July 1, 1944, ch. 373, title XVI, § 1602, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2258.)

REFERENCES IN TEXT

Reference to section "300k–3" of this title in par. (5) covering State medical facilities plans was probably intended to read section "300o–2" of this title in view of the content of the sections involved.

SECTION REFFERED TO IN OTHER SECTIONS

This section is referred to in sections 300o–2, 300o–3 of this title.

§ 300o–2. State medical facilities plan; submission and approval as prerequisite for approval of project assistance application; required provisions; procedure upon disapproval of plan.

(a) Before an application for assistance under this subchapter (other than part D) for a medical facility project described in section 300o of this title may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

(1) prescribe that the State Agency of the State shall administer or supervise the administration of the plan and contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the plan in conformity with this subchapter;

(2) prescribe that the Statewide Health Coordinating Council of the State shall advise and consult with the State Agency in carrying out the plan;

(3) be approved by the Statewide Health Coordinating Council as consistent with the State health plan developed pursuant to section 300m–3(c)(2) of this title;

(4) set forth, in accordance with criteria established in regulations prescribed under section 300o–1(a) of this title and on the basis of a statewide inventory of existing medical facilities, a survey of need, and the plans of health systems agencies within the State—

(A) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of such beds and facilities in health services areas throughout the State,

(B) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of such facilities in health service areas throughout the State, and

(C) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

(5) set forth a program for the State for assistance under this subchapter for projects described in section 300o of this title, which program

shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and regulations promulgated under section 300o–1(a) of this title;

(6) set forth (in accordance with regulations promulgated under section 300o–1(a) of this title) priorities for the provision of assistance under this subchapter for projects in the program set forth pursuant to paragraph (4);

(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this subchapter, and provide for enforcement of such standards;

(8) provide for affording to every applicant for assistance for a medical facilities project under this subchapter an opportunity for a hearing before the State Agency; and

(9) provide that the State Agency will from time to time, but not less often than annually, review the plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State medical facilities plan and any modification thereof which complies with the provisions of subsection (a) of this section if the State Agency, as determined under the review made under section 300n–4(d) of this title, is organized and operated in the manner prescribed by section 300m–1 of this title and is carrying out its functions under section 300m–2 of this title in a manner satisfactory to the Secretary. If any such plan or modification thereof shall have been disapproved by the Secretary for failure to comply with subsection (a) of this section, the Secretary shall, upon request of the State Agency, afford it an opportunity for hearing. (July 1, 1944, ch. 373, title XVI, § 1603, as added Jan. 2, 1975, Pub. L. 93–641, § 4, 88 Stat. 2259.)

REFERENCES IN TEXT

Reference to section 300o–1(a) of this title in subsecs. (a)(4), (a)(5), and (a)(6) was probably intended as a simple reference to section 300o–1 of this title since section 300o–1 is not divided into lettered subsections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m–2, 300o–1, 300o–3, 300p–2 of this title.

§ 300o–3. Medical facility project applications.

(a) Submissions.

For each project described in section 300o of this title and included within a State's State medical facilities plan approved under section 300o–2 of this title there shall be submitted to the Secretary, through the State's State Agency, an application. An application for a grant under section 300r of this title shall be submitted directly to the Secretary. Except as provided in section 300r of this title, the applicant under such an application may be a State, a political subdivision of a State or any other public entity, or a private nonprofit entity. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) Required provisions; waiver; projects subject to requirements.

(1) Except as authorized under paragraph (2), an application for any project shall set forth—

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) a description of the site of such project;

(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300o–1(a) of this title;

(D) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(E) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(F) the type of assistance being sought under this subchapter for the project;

(G) except in the case of a project under section 300r of this title, a certification by the State Agency of the Federal share for the project;

(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40;

(I) in the cast[1] of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(J) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the

[1] So in original. Probably should be "case".

volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300o–1(a)(2) of this title, and

(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B).

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 300s–3 of this title or as designated by a health systems agency, and

(ii) for which the applicant seeks (I) not more than $20,000 from the allotments made under part B of this subchapter to the State in which it is located, or (II) a loan under part C of this subchapter the principal amount of which does not exceed $20,000.

(c) Criteria for approval.

The Secretary shall approve an application submitted under subsection (b) of this section (other than an application for a grant under section 300r of this title) if—

(1) in the case of a project to be assisted from an allotment made under part B of this subchapter, there are sufficient funds in such allotment to pay the Federal share of the project; and

(2) the Secretary finds that—

(A) the application (i) is in conformity with the State medical facilities plan approved under section 300o–2 of this title, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, and (iv) contains the assurances required by subsection (b) of this section; and

(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 300o–1(a) of this title.

(d) Procedure for disapproval.

No application (other than an application for a grant under section 300r of this title) shall be disapproved until the Secretary has afforded the State Agency an opportunity for a hearing.

(e) Amendment of approved applications.

Amendment of any approved application shall be subject to approval in the same manner as an original application.

(f) Review by health systems agencies.

Each application shall be reviewed by health systems agencies in accordance with section 300*l*–2(e) of this title. (July 1, 1944, ch. 373, title XVI, § 1604, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2260.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(1)(H), is set out in the Appendix to Title 5, Government Organization and Employees.

Reference in subsecs. (b)(1)(C) and (c)(2)(B) of this section to section 300o–1(a) of this title was probably intended as a simple reference to section 300o–1 of this title since section 300o–1 of this title is not divided into lettered subsections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p–1, 300p–2, 300q, 300r, 300s, 300s–1, 300s–3, 300s–5 of this title.

PART B.—ALLOTMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300*o*, 300o–3, 300s–3 of this title.

§ 300p. Allotments for States.

(a) Authorization; criteria.

For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 300*l*–2 of this title allotments among the States on the basis of the population, the financial need, and need for medical facilities projects described in section 300o of this title of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) Minimum amounts; reductions in appropriations.

(1) The allotment to any State (other than Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands) for any fiscal year shall be not less than $1,000,000; and the allotment to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands for any fiscal year shall be not less than $500,000 each.

(2) Notwithstanding paragraph (1), if the amount appropriated under section 300p–3 of this title for any fiscal year is less than the amount required to provide allotments in accordance with paragraph (1), the amount of the allotment to any State for such fiscal year shall be an amount which bears the same ratio to the amount prescribed for such State by paragraph (1) as the amount appropriated for such fiscal year bears to the amount of appropriations needed to make allotments to all the States in accordance with paragraph (1).

(c) Availability of unobligated amounts; reallotment.

Any amount allotted to a State for a fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts alloted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to

other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period. (July 1, 1944, ch. 373, title XVI, § 1610, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2262.)

REFERENCES IN TEXT

Reference in subsec. (a) to section 300*l*–2 of this title was probably intended to be a reference to section 300p–3 of this title in view of the subject matter of the sections involved.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p–2, 300p–3 of this title.

§ 300p–1. Payments to States for projects.

(a) Authorization; certification by State Agency.

If with respect to any medical facility project approved under section 300o–3 of this title the State Agency certifies (upon the basis of inspection by it) to the Secretary that, in accordance with approved plans and specifications, work has been performed upon the project or purchases have been made for it and that payment from the applicable allotment of the State in which the project is located is due for the project, the Secretary shall, except as provided in subsection (b) of this section, make such payment to the State.

(b) Withholding of amounts; maximum amounts.

The Secretary is authorized to not make payments to a State pursuant to subsection (a) of this section in the following circumstances:

(1) If such State is not authorized by law to make payments for an approved medical facility project from the payment to be made by the Secretary pursuant to subsection (a) of this section, or if the State so requests, the Secretary shall make the payment from the State allotment directly to the applicant for such project.

(2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 300p–2 of this title, payment by the Secretary may, after he has given the State Agency notice and opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing.

In no event may the total of payments made under subsection (a) of this section with respect to any project exceed an amount equal to the Federal share of such project.

(c) Additional amounts.

In case an amendment to an approved application is approved as provided in section 300o–3 of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(d) Obligation of amounts.

In any fiscal year—

(1) not more than 20 per centum of the amount of a State's allotment available for obligation in that fiscal year may be obligated for projects in the State for construction of new facilities for the provision of inpatient health care to persons residing in areas of the State which have experienced recent rapid population growth; and

(2) not less than 25 per centum of the amount of a State's allotment available for obligation in that fiscal year shall be obligated for projects for outpatient facilities which will serve medically underserved populations.

In the administration of this part, the Secretary shall seek to assure that in each fiscal year at least one half of the amount obligated for projects pursuant to paragraph (2) shall be obligated for projects which will serve rural medically underserved populations. (July 1, 1944, ch. 373, title XVI, § 1611, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2262.)

§ 300p–2. Compliance provisions.

(a) Finding of noncompliance with plan, etc., requirements.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Agency concerned finds—

(1) that the State Agency is not complying substantially with the provisions required by section 300o–2 of this title to be included in its State medical facilities plan,

(2) that any assurance required to be given in an application filed under section 300o–3 of this title is not being or cannot be carried out, or

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 300o–3 of this title,

the Secretary shall take the action authorized by subsection (b) of this section unless, in the case of compliance with assurances, the Secretary requires compliance by other means authorized by law.

(b) Withholding of payments.

(1) Upon a finding described in subsection (a) of this section and after notice to the State Agency concerned, the Secretary may—

(A) withhold from all projects within the State with respect to which the finding was made further payments from the State's allotment under section 300p of this title, or

(B) withhold from the specific projects with respect to which the finding was made further payments from the applicable State allotment under section 300p of this title.

(2) Payments may be withheld, in whole or in part, under paragraph (1)—

(A) until the basis for the finding upon which the withholding was made no longer exists, or

(B) if corrective action to make such finding inapplicable cannot be made, until the State concerned repays or arranges for the repayment of Federal funds paid under this part for projects which because of the finding are not entitled to such funds.

(c) Investigation of recipients for compliance with assurances; remedies available for finding of noncompliance.

The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this subchapter or which has received financial assistance under

subchapter IV of this chapter or this subchapter, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) of this section or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary. (July 1, 1944, ch. 373, title XVI, § 1612, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2263.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p–1, 300s of this title.

§ 300p–3. Authorization of appropriations.

Except as provided in section 300r(d) of this title, there are authorized to be appropriated for allotments under section 300p of this title $125,000,000 for the fiscal year ending June 30, 1975, $130,000,000 for the fiscal year ending June 30, 1976, and $135,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XVI, § 1613, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2264.)

CODIFICATION

Section 300p of this title, was, in the original, section 1510, which has been translated editorially as 300p, to conform to the provisions of House Report No. 93–1640, as the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p, 300r of this title.

PART C.—LOANS AND LOAN GUARANTEES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300o, 300o–3, 300s–3 of this title.

§ 300q. Loan and loan guarantee authority.

(a) Loan authority for payment of Federal share of approved projects; duration.

The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, make loans from the fund established under section 300q–2(d) of this title to pay the Federal share of projects approved under section 300o–3 of this title.

(b) Loan guarantee authority for payment of principal and interest on loans for approved projects; duration; payments for reduction of interest rate.

(1) The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to nonprofit private entities for medical facilities projects, and

(ii) the Federal Financing Bank for its loans to nonprofit private entities for such projects,

payment of principal and interest on such loans if applications for assistance for such projects under this subchapter have been approved under section 300o–3 of this title.

(2) In the case of a guarantee of any loan to a nonprofit private entity under this subchapter, the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under this subchapter shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(c) Limitation on cumulative total of principal of outstanding loans.

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) Administrative assistance of Department of Housing and Urban Development.

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof. (July 1, 1944, ch. 373, title XVI, § 1620, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2264.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q–2 of this title.

§ 300q–1. Allocation among States of total amount of principal; criteria; availability of unobligated amounts; reallotment.

(a) For each fiscal year, the total amount of principal of—

(1) loans to nonprofit private entities which may be guaranteed, or

(2) loans which may be directly made,

under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of the population, financial need, and need for medical facilities projects described in section 300o of this title of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) Any amount allotted to a State for a fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Sec-

retary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period. (July 1, 1944, ch. 373, title XVI, § 1621, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2265.)

§ 300q–2. General provisions.

(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability.

(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States.

(1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus 3 per centum per annum, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds.

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of Title 12 or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3) (A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d) of this section.

(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions.

(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts—

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 300q (b) (2) of this title on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c) (3) (B) of this section, and

(E) for payment of interest on loans which are sold and guaranteed.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

(A) to make payments of interest under section 300q(b) (2) of this title,

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c) (3) (B) of this section, and

(E) to make payments of interest on loans which are sold and guaranteed,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transactions [1] of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Transfers to an additional capitalization of loan and loan guarantee fund.

(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 291j–6 of this title shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) of this section there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977. (July 1, 1944, ch. 373, title XVI, § 1622, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2265.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (d), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q of this title.

PART D.—PROJECT GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300*o*, 300o–2, 300s–3 of this title.

[1] So in original.

§ 300r. Grants for construction or modernization projects.

(a) Authority; projects subject to grants.

The Secretary may make grants for construction or modernization projects designed to (1) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (2) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this subsection may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for a project described in the preceding sentence for any medical facility owned or operated by it.

(b) Criteria for approval of applications.

An application for a grant under subsection (a) of this section may not be approved under section 300o–3 of this title unless it contains assurances satisfactory to the Secretary that the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for.

(c) Maximum amounts.

The amount of any grant under subsection (a) of this section may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(d) Amount of appropriations available for fiscal year.

Of the sums appropriated under section 300p–3 of this title for a fiscal year, there shall be made available for grants under subsection (a) of this section for such fiscal year 22 per centum of such sums. (July 1, 1944, ch. 373, title XVI, § 1625, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2268.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300o–3, 300p–3 of this title.

PART E.—GENERAL PROVISIONS

§ 300s. Judicial review; petition; jurisdiction; record; review by Supreme Court.

If—

(1) the Secretary refuses to approve an application for a project submitted under section 300o–3 of this title, the State Agency through which such application was submitted, or

(2) any State is dissatisfied with, or any entity will be adversely affected by, the Secretary's action under section 300p–2 of this title, such State or entity,

may appeal to the United States court of appeals for the circuit in which such State Agency, State, or entity is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the Court, operate as a stay of the Secretary's action. (July 1, 1944, ch. 373, title XVI, § 1630, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2269.)

§ 300s–1. Recovery by United States of proceeds from sale or transfer or termination of use of facility constructed, modernized, or converted with project funds; amount recoverable; waiver.

(a) If any facility constructed, modernized, or converted with funds provided under this subchapter is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 300o–3 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

(b) The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility in any State—

(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) of this section with respect to such facility is applied to the development, expansion, or support of another

medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 300m–3(c) of this title; or

(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) of this section exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost. The Secretary may not waive a right of recovery which arose one year before January 4, 1975. (July 1, 1944, ch. 373, title XVI, § 1631, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2269.)

§ 300s–2. State supervision or control of operations of facilities receiving funds.

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee, the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter. (July 1, 1944, ch. 373, title XVI, § 1632, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2270.)

§ 300s–3. Definitions.

For the purposes of this subchapter—

(1) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the District of Columbia.

(2) The term "Federal share" means the proportion of the cost of a medical facilities project which the State Agency determines the Federal Government will provide under allotment payments or a loan or loan guarantee under this subchapter, except that—

(A) in the case of a modernization project—

(i) described in section 300o–3(b)(2)(B) of this title, and

(ii) the application for which received a waiver under section 300o–3(b)(2)(A) of this title,

the proportion of the cost of such project to be paid by the Federal Government under allotment payments or a loan may not exceed $20,000 and may not exceed 100 per centum of the first $6,000 of the cost of such project and 66⅔ per centum of the next $21,000 of such cost,

(B) in the case of a project (other than a project described in subparagraph (A)) to be assisted from an allotment made under part B of this subchapter, the proportion of the cost of such project to be paid by the Federal Government may not exceed 66⅔ unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the proportion of the cost of such project to be paid by the Federal Government may be 100 per centum, and

(C) in the case of a project (other than a project described in subparagraph (A)) to be assisted with a loan or loan guarantee made under part C of this subchapter, the principal amount of the loan directly made or guaranteed for such project, when added to any other assistance provided the project under this subchapter, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under this subchapter, may cover up to 100 per centum of the cost of the project.

(3) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departpartments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professonal[1] personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(4) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(5) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term "outpatient medical facility" means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(7) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required

[1] So in original.

evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(8) The term "facility for long-term care" means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(9) The term "construction" means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(10) The term "cost" as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part D of this subchapter, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(11) The term "modernization" includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(12) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction, modernization, or conversation and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this subchapter, or (B) the term of repayment of a loan made or guaranteed under this subchapter in the case of a project assisted by a loan or loan guarantee.

(13) The term "medical facility" means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(14) The term "State Agency" means the State health planning and development agency of a State designated under subchapter XII of this chapter.

(15) The term "urban or rural poverty area" means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

(B) not less than such percentage minus five per centum.

(16) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities. (July 1, 1944, ch. 373, title XVI, § 1633, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2270.)

REFERENCES IN TEXT

Reference to subchapter XII of this chapter in par. (14) was probably intended as a reference to subchapter XIII of this chapter in view of the content of the subchapters involved. For designation provisions, see section 300m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3000–3 of this title.

§ 300s–4. Reporting and audit requirements for recipients.

(a) Filing of financial statement with appropriate State Agency; form and contents.

In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this subchapter, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs of the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(b) Maintenance of records; access to books, etc., for audit and examination.

(1) Each entity receiving Federal assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and

such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).

(c) Filing of financial statement with Secretary; form and contents.

Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

(July 1, 1944, ch. 373, title XVI, § 1634, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2273.)

§ 300s–5. Availability of technical and other nonfinancial assistance to eligible applicants.

The Secretary shall provide (either through the Department of Health, Education, and Welfare or by contract) all necessary technical and other nonfinancial assistance to any public or other nonprofit entity which is eligible to apply for assistance under this subchapter to assist such entity in developing applications to be submitted to the Secretary under section 300o–3 of this title. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this subchapter. (July 1, 1944, ch. 373, title XVI, § 1635, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2273.)

PART F.—AREA HEALTH SERVICES DEVELOPMENT FUNDS

§ 300t. Development grants for health systems agencies.

(a) Eligible recipients; purpose of grants.

The Secretary shall make in each fiscal year a grant to each health system agency—

(1) with which there is in effect a designation agreement under section 300*l*–4(c) of this title,

(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 300n–4(c) of this title, is organized and operated in the manner prescribed by section 300*l*–1(b) of this title and is performing its functions under section 300*l*–2 of this title in a manner satisfactory to the Secretary,

to enable the agency to establish and maintain an Area Health Service Development Fund from which it may make grants and enter into contracts in accordance with section 300*l*–2(c)(3) of this title.

(b) Determination of amounts; maximum amounts.

(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) of this section shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) of this section to a health systems agency for any fiscal year may not exceed the product of $1 and the population of the health service area for which such agency is designated.

(c) Applications; submission and approval as prerequisite; form and contents.

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) Authorization of appropriations.

For the purpose of making payments pursuant to grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, and $120,000,000 for the fiscal year ending June 30, 1977. (July 1, 1944, ch. 373, title XVI, § 1640, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2273.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–1, 300*l*–2, 300m–3, 300n–5 of this title.

Chapter 7.—SOCIAL SECURITY

SUBCHAPTER II.—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Sec.
405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering state and local employees; effective date [New].
430. Adjustment of the contribution and benefit base [New].
(a) Determination and publication by Secretary in Federal Register subsequent to cost-of-living benefit increase; effective date.
(b) Determination of amount.
(c) Amount of base for period prior to initial cost-of-living benefit increase.
431. Benefits for certain individuals interned by United States during World War II [New].
(a) Definition.
(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States.
(c) Authorization of appropriations.
432. Processing of tax data [New].

SUBCHAPTER IV.—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART D.—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY [NEW]

651. Authorization of appropriations.
652. Duties of Secretary.
(a) Establishment of separate organizational unit; duties.
(b) Certification of children support obligations to Secretary of Treasury for collection.
(c) Revolving fund; appropriations.

Sec.
653. Parent Locator Service.
(a) Establishment; purpose.
(b) Disclosure of information to authorized persons.
(c) Authorized persons.
(d) Form and manner of request for information.
(e) Compliance with request; search of files and records by head of any department, etc., of United States; transmittal of information to Secretary; reimbursement for cost of search; fees.
(f) Arrangements and cooperation with State agencies.
654. State plan for child support.
655. Payments to States.
656. Support obligation as obligation to State; amount; discharge in bankruptcy.
657. Distribution of proceeds.
(a) Amount collected during fifteen month period beginning July 1, 1975.
(b) Amount collected during any fiscal year beginning after September 30, 1976.
(c) Collection after termination of assistance.
658. Incentive payments to State or policitical subdivision for enforcement and collection of support rights; allocation among jurisdictions.
659. Consent by United States to garnishment and similar proceedings for enforcement of child support and alimony obligations.
660. Civil action to enforce child support obligations; jurisdiction of district courts.

SUBCHAPTER V.—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

716. Supplemental allotments [New].
(a) Amount; requirement of State arrangements for continuation of services to population groups.
(b) Authorization of appropriations; limitation; reduction of allotments.

SUBCHAPTER VI.—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED [NEW]

801. Statement of purpose; authorization of appropriation.
802. State plans for services to the aged, blind, or disabled; contents; approval by Secretary.
803. Payments to States.
(a) Quarterly expenditures as basis for determination of amount.
(b) Estimation of amounts by Secretary; payment of amounts in installments; reduction or increases in amounts; appropriations available for payments to be deemed obligated subsequent to estimation.
(c) Availability and administration of benefits pursuant to State plan.
(d) Quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965; basis for determination of expenditures.
804. Operation of State plans.
805. Definition.

SUBCHAPTER VII.—ADMINISTRATION

905a. Same; additional use [New].

SUBCHAPTER XI.—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

PART A.—GENERAL PROVISIONS

1306a. Public access to State disbursement records [New].
1320a–1. Limitation on use of Federal funds for capital expenditures [New].
(a) Use of reimbursement for planning activities for health services and facilities.

Sec.
1320a–1. Limitation on use of Federal funds for capital expenditures—Continued
(b) Agreement between Secretary and State for submission of proposed capital expenditures related to health care facilities or health maintenance organizations, and procedures for appeal from recommendations.
(c) Manner of payment to States for carrying out agreement.
(d) Determination of amount of exclusions from Federal payments.
(e) Treatment of lease or comparable arrangement of any facility or equipment for a facility in determining amount of exclusions from Federal payments.
(f) Reconsideration by Secretary of determinations.
(g) Definition.
(h) Applicability to Christian Science sanatoriums.
(i) National advisory council; establishment or designation of existing council; functions; consultations with other appropriate national advisory councils; composition; compensation and travel expenses.
1320a–2. Qualifications for health care personnel [New].
1320b. Limitation on funds for certain social services [New].
(a) General limitation.
(b) State allotment; formula; promulgation.
(c) State defined.
1320b–1. Notification of Social Security claimant with respect to deferred vested benefits [New].

PART B.—PROFESSIONAL STANDARDS REVIEW [NEW]

1320c. Congressional declaration of purpose.
1320c–1. Professional Standards Review Organizations.
(a) Designation.
(b) Qualified organizations eligible for designation.
(c) Order of eligibility; renewal of agreements.
(d) Agreement expiration; prior termination.
(e) Waiver of those review, certification, and similar activities now covered by Professional Standards Review Organizations.
(f) Agreement notice; objection by doctors; poll.
(g) Statewide Professional Standards Review Organization; criteria for designation; nonapplicability.
1320c–2. Review pending designation of Professional Standards Review Organization.
1320c–3. Trial period for Professional Standards Review Organizations.
1320c–4. Duties and functions of Professional Standards Review Organizations.
(a) Responsibility for review of professional activities; case criteria; patient profiles; physician review of hospital care; involvement of reviewing physicians.
(b) Utilization of practitioners and specialists; examination of records; inspection of facilities.
(c) Utilization of services of unlicensed doctors of medicine or osteopathy.
(d) Familiarization of physicians with review functions of Professional Standards Review Organizations.
(e) Review committees of hospitals or other operating health care facilities or organizations.
(f) Agreement requirements.
(g) Review of health care services limited to health care services provided by or in institutions unless otherwise requested.
1320c–5. Norms of health care services.
(a) Development by Professional Standards Organizations.

Sec.
1320c–5. Norms of health care services—Continued
(b) Requisite contents of norms.
(c) Data on regional norms; preparation; distribution, review, and revision; utilization of norms.
(d) Certification for further inpatient care.
1320c–6. Submission of reports by Professional Standards Review Organizations.
1320c–7. Review approval as condition of payment of claims.
1320c–8. Hearing and review by Secretary.
1320c–9. Obligations of health care practitioners and providers of health care services.
(a) Enumeration of obligations.
(b) Failure to comply with obligations; gross and flagrant violations; exclusion of practitioner or provider from eligibility; sanctions and penalties; hearing and review.
(c) Duty of Review Organizations and Statewide Review Councils to assure compliance with obligations.
1320c–10. Notice to practitioner or provider.
1320c–11. Statewide Professional Standards Review Councils.
(a) Establishment.
(b) Membership.
(c) Duties.
(d) Payments.
(e) Advisory groups.
1320c–12. National Professional Standards Review Council.
(a) Establishment; membership.
(b) Qualifications for membership.
(c) Consultants.
(d) Compensation of members.
(e) Duties.
(f) Reports.
1320c–13. Professional standards review requirements applicable to certain State programs.
1320c–14. Correlation of functions between Professional Standards Review Organizations and administrative instrumentalities.
1320c–15. Disclosure of information prohibited.
1320c–16. Limitation of liability.
(a) Persons providing information to Professional Standards Review Organizations.
(b) Members and employees of Professional Standards Review Organizations.
(c) Health care practitioners and providers.
1320c–17. Authorization for use of funds to administer professional review program; transfer of moneys between funds.
1320c–18. Technical assistance to organizations desiring to be designated as Professional Standards Review Organizations.
1320c–19. Exemptions of Christian Science sanatoriums.

SUBCHAPTER XVI.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [NEW]

1381. Statement of purpose; authorization of appropriation.
1381a. Basic entitlement to benefits.

PART A.—DETERMINATION OF BENEFITS

1382. Eligibility for benefits.
(a) Definition of eligible individual.
(b) Amount of benefits.
(c) Period for determination of benefits; redetermination of eligibility and amount of benefits; effective date of application.
(d) Limitation on amount of gross income earned; definition of gross income.
(e) Limitation on eligibility of certain individuals.
(f) Individuals outside the United States; determination of status.
(g) Individuals deemed to meet resources test.
(h) Individuals deemed to meet income test.

Sec.
1382a. Income; definition of earned and unearned income; exclusions from income.
1382b. Resources; exclusions from resources; disposition of resources.
1382c. Definitions.
1382d. Rehabilitation services for blind and disabled individuals.
(a) Referral by Secretary of eligible individuals to appropriate State agency; review by Secretary of individual's blindness or disability and need for services.
(b) Acceptance by referred individuals of services; payment by Secretary to State agency of costs of providing services to referred individuals.
(c) Refusal by referred individuals to accept services.
1382e. Supplementary assistance by State or subdivision to needy individuals.
(a) Exclusion of cash payments in determination of income of individuals for purposes of eligibility for benefits; agreement by Secretary and State for Secretary to make supplementary payments on behalf of State or subdivision.
(b) Agreement between Secretary and State; contents.
(c) Residence requirement by State or subdivision for supplementary payments; disregarding of amounts of certain income by State or subdivision in determining eligibility for supplementary payments.
(d) Payment to Secretary by State of amount equal to expenditures by Secretary as supplementary payments; time and manner of payment by State.
(e) Reduction of supplemental security income payments to individuals provided institutional medical or other remedial care, State financed under Federal grants for medical assistance.
1382f. Cost-of-living adjustments in benefits.

PART B.—PROCEDURAL AND GENERAL PROVISIONS

1383. Procedure for payment of benefits.
(a) Time, manner, form, and duration of payments; promulgation of regulations.
(b) Overpayments and underpayments; adjustment recovery, or payment of amounts by Secretary.
(c) Hearing to determine eligibility or amount of benefits; time within which to request hearing; time for determinations of Secretary pursuant to hearing; judicial review.
(d) Procedures applicable; prohibition on assignment of payments; representation of claimants; maximum fees; penalties for violations.
(e) Administrative requirements prescribed by Secretary; criteria; reduction of benefits to individual for noncompliance with requirements.
(f) Furnishing of information by Federal agencies.
(g) Reimbursement to States for interim assistance payments; definitions; agreement; hearing provisions inapplicable to disagreements concerning payments; termination date; report to Congress.
1383a. Fraudulent acts; penalties.
1383b. Administration.
1383c. Eligibility for medical assistance of aged, blind, or disabled individuals under State's medical assistance plan; determination by Secretary pursuant to agreement between Secretary and State; costs.

SUBCHAPTER XVIII.—HEALTH INSURANCE FOR THE AGED

PART A.—HOSPITAL INSURANCE BENEFITS FOR THE AGED

Sec.
1395i–2. Hospital insurance benefits for uninsured individuals not otherwise eligible [New].
(a) Individuals eligible to enroll.
(b) Time, manner, and form of enrollment.
(c) Period of enrollment; scope of coverage.
(d) Monthly premiums.
(e) Contract or other arrangement for payment of monthly premiums.
(f) Deposit of amounts into Treasury.

PART C.—MISCELLANEOUS PROVISIONS

1395mm. Payments to health maintenance organizations [New].
(a) Rates and adjustments.
(b) Definition.
(c) Benefits.
(d) Enrollment in local health maintenance organizations.
(e) Termination of enrollment.
(f) Hearings; judicial review.
(g) Limits on costs.
(h) Nonapplicability to certain organizations.
(i) Contract authority.
(j) Performance of contractual functions.
1395nn. Offenses and penalties [New].
1395oo. Provider Reimbursement Review Board [New].
(a) Establishment.
(b) Appeals by groups.
(c) Right to counsel; rules of evidence.
(d) Decisions of Board.
(e) Rules and regulations.
(f) Finality of decision; judicial review; jurisdiction; venue; interest on amount in controversy.
(g) Certain findings not reviewable.
(h) Composition and compensation.
(i) Technical and clerical assistance.
1395pp. Limitations on liability where claims are disallowed [New].
(a) Conditions prerequisite to payment for items and services notwithstanding determination of disallowance.
(b) Knowledge of person or provider that payment could not be made; indemnification of individual.
(c) Knowledge of both provider and individual to whom items or services were furnished that payment could not be made.
(d) Exercise of rights.

SUBCHAPTER XIX.—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

1396h. Offenses and penalties [New].
1396l. Certification and approval of skilled nursing facilities [New].

SUBCHAPTER XX.—GRANTS TO STATES FOR SERVICES [NEW]

1397. Authorization of appropriations.
1397a. Payments to States; computation of amounts.
1397b. State programs for social services assistance.
(a) Reports.
(b) Aggregate expenditures from appropriated funds from State and local subdivisions.
(c) Termination of payments on failure to comply.
(d) Contents of State plans.
(e) Termination or suspension of payments.
1397c. Services program planning.
1397d. Effective date of regulations.
1397e. Program evaluation and assistance.
(a) Continuing evaluation.
(b) Assistance in administration.
(c) Report to Congress.
1397f. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 242c, 3195 of this title; title 5 sections 8141, 8311, 8505; title 20 section 1070a; title 25 sections 459e, 639, 640d–21, 1264, 1407; title 26 sections 162, 412, 1402; title 29 section 1082; title 31 sections 1351, 1352; title 45 sections 231, 231a, 231b, 231c, 231d, 231e, 231f, 231q, 231r.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 47–1567g of the District of Columbia Code.

SUBCHAPTER I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

REPEAL OF SUBCHAPTER I OF THIS CHAPTER EFFECTIVE JANUARY 1, 1974; INAPPLICABILITY OF REPEAL TO PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1320a, 1382, 1395v, 1395z, 1396a, 1396b, 1396d, 1397b, 2932 of this title; title 7 section 2012; title 29 section 981; title 31 section 665.

§ 301. Appropriation.

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Pub. L. 92–603, title III, § 303(b), Oct. 30, 1972, 86 Stat. 1484, provided that: "The amendments made by sections 301 [enacting sections 1381–1383b of this title] and 302 [enacting sections 801–805 of this title] and the repeals made by subsection (a) [repealing sections 301–306, 1201–1206 and 1351 of this title] shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands."

§ 302. State old-age and medical assistance plans.

(a) Contents.

A State plan for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged must—

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

* * * * *

(4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately

upon issuance its decision upon the matter considered at such hearing;

* * * * *

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

* * * * *

(10) If the State plan includes old-age assistance—

* * * * *

(C) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of such assistance to help them attain self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

* * * * *

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition of eligibility for assistance under the plan—

* * * * *

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 405(a), 406(a), 407(a), 410(a), 413(a), 86 Stat. 1488, 1489, 1491, 1492.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–603, § 410(a), added "except to the extent permitted by the Secretary with respect to services" preceding "provide".

Subsec. (a)(4). Pub. L. 92–603, § 407(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(7). Pub. L. 92–603, § 413(a), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of the State plan.

Subsec. (a)(10)(C). Pub. L. 92–603, § 405(a), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92–603, § 406(a), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

DISREGARDING OF INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Section 306 of Pub. L. 92–603 provided that: "In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter], there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after October 1972, or, at the option of the State, September 1972, and before January 1974 who also receives in such month a monthly insurance benefit under title II of such Act [subchapter II of this chapter] which was increased as a result of the enactment of Public Law 92–336, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under such plan), shall exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for October 1972, plus the monthly insurance benefit which would have been received by him in such month, by an amount equal to $4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 304, 306, 602, 1202, 1315, 1352 of this title; title 25 sections 683, 686, 689.

§ 303. Payments to States; computation of amounts; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1960—

* * * * *

(4) in the case of any State whose State plan approved under section 302 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

* * * * *

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

* * * * *

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not other-

wise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

* * * * *

(As amended Oct. 20, 1972, Pub. L. 92–512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93–647, §§ 3(e)(2), 5(a), 88 Stat. 2349, 2350.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(4)(D), (E), which was classified to section 31 et seq. of title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall."

Subsec. (a)(4)(A)(iv). Pub. L. 93–647, § 5(a), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92–512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the text preceding par. (1).

Subsec. (a)(4)(E). Pub. L. 92–512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 5 of Pub. L. 93–647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of opening provisions of subsec. (a) by Pub. L. 92–512 effective July 1, 1972, and amendment of subsec. (a)(4)(E) by Pub. L. 92–512 effective Jan. 1, 1973, see section 301(e) of Pub. L. 92–512, set out as a note under section 1320b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 643, 1306a, 1315, 1318, 1319, 1396a, 1397a of this title; title 25 section 639.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3–217 of the District of Columbia Code.

§§ 304, 305.

REPEAL OF SECTIONS EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that these sections are repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 306. Definitions.

(a) For the purposes of this subchapter, the term "old-age assistance" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for assistance) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution). Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 302 of this title includes provision for—

* * * * *

At the option of a State (if its plan approved under this subchapter so provides), such term (1) need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of assistance under such plan.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 408(a), 409(a), 86 Stat. 1489, 1490.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603 authorized the State, at its option, to include within the term "old-age assistance" provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title.

SUBCHAPTER II.—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 907, 1301a, 1320b–1, 1382c, 1382f, 1383, 1395c, 1395v, 1395gg, 1395ll, 1395oo, 1396a, 5055 of this title; title 5 sections 8141, 8311,

8345; title 10 section 1451; title 26 sections 401, 404, 411, 3121; title 29 sections 206, 926, 1026, 1054, 1056; title 30 sections 922, 923; title 38 sections 412, 415, 503, 3005; title 45 sections 231b, 231c, 231f, 231n, 231r.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 31–725, 46–307 of the District of Columbia Code.

§ 401. Federal old-age and survivors insurance trust fund and Federal disability insurance trust fund.

(a) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund." The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such gifts and bequests as may be made as provided in subsection (i) (1) of this section, and such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

* * * * *

(b) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i) (1) of this section, and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) (A) one-half of 1 per centum of the wages (as defined in section 3121 of Title 26, Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 percentum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A) three-eights of 1 per centum of the amount of self-employment income (as defined in section 1402 of Title 26, Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of Title 26, Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, (E) 0.795 of 1 per centum of the amount of self-1969, and before January 1, 1973, employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 percentum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

* * * * *

(g) (1) (A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by subchapter XVIII

of this chapter) is directed to pay from the Trust Funds into the Treasury—

(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of subchapters II, XVI, and XVIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of subchapters II, XVI, and XVIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 432 of this title shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

* * * * *

(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.

* * * * *

(l)(1) The Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to any one or more of such Trust Funds or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.

(2) Any such gift accepted pursuant to the authority granted in paragraph (1) of this subsection shall be deposited in—

(A) the specific trust fund designated by the donor or

(B) if the donor has not so designated, the Federal Old-Age and Survivors Insurance Trust Fund.

(As amended July 1, 1972, Pub. L. 92-336, title II, § 205, 86 Stat. 422; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 132(a)-(c), 136, title III, § 305(a), 86 Stat. 1360, 1364, 1484; Dec. 31, 1973, Pub. L. 93-233, § 7,

87 Stat. 955; Jan. 2, 1976, Pub. L. 94–202, § 8(d), 89 Stat. 1137.)

AMENDMENTS

1976—Subsec. (g)(1). Pub. L. 94–202, § 8(d)(1), incorporated changes in the operations and responsibilities of the Managing Trustee of the Trust Funds and the Secretary of Health, Education, and Welfare occasioned by changes in the annual method of reporting wages for social security purposes, by directing that estimated amounts paid from the Trust Funds into the Treasury, to replace amounts expended from the general fund in the Treasury, be estimated by both the Managing Trustee and the Secretary and that the Secretary determine the portion of costs attributable to the general fund in the Treasury and the portion attributable to the Trust Funds at the close of the fiscal year, by deleting reference to section 1381 of this title, and by adding reference to par. (4) of this section, section 432 of this title, and subchapter E of chapter 1 and subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, where appearing therein.

Subsec. (g)(4). Pub. L. 94–202, § 8(d)(2), added subsec. (g)(4).

1973—Subsec. (b)(1)(E)–(J). Pub. L. 93–233, § 7(a), substituted in: cl. (E) "January 1, 1974" for "January 1, 1978"; cl. (F) "December 31, 1973" and "January 1, 1978" for "December 31, 1977" and January 1, 2011"; cl. (G) "1.2" for "1.5" per centum and "paid after December 31, 1977, and before January 1, 1981" for "paid after December 31, 2010," and added cls. (H)–(J).

Subsec. (b)(2)(E)–(J). Pub. L. 93–233, § 7(b), substituted in: cl. (E) "January 1, 1974" for January 1, 1978"; cl. (F) "0.815 of 1 per centum" for "0.84 per centum" and "as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978" for "so reported for any taxable year beginning after December 31, 1977, and before January 1, 2011"; cl. (G) "0.850 of 1 percentum" for "0.895 per centum" and "taxable year beginning after December 31, 1977, and before January 1, 1981" for "taxable year beginning after December 31, 2010"; and added cls. (H)–(J).

1972—Subsec. (a). Pub. L. 92–603, § 132(a), inserted "such gifts and bequests as may be made as provided in subsection (l)(1) of this section, and" following "in addition," in the provisions preceding par. (1).

Subsec. (b). Pub. L. 92–603, § 132(b), inserted "such gifts and bequests as may be made as provided in subsection (l)(1) of this section, and" following "consist of" in the provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 92–603, § 136(a), substituted "1.1" for "1.0" in cl. (E), "1.15" for "1.1" in cl. (F), and "1.5" for "1.4" in cl. (G).

Pub. L. 92–336, § 205(a), struck out "and" preceding "(D)", inserted reference to wages paid before January 1, 1973 in cl. (D), and added cls. (E), (F), and (G).

Subsec. (b)(2). Pub. L. 92–603, § 136(b), substituted "0.795" for "0.75" in cl. (E), "0.84" for "0.825" in cl. (F), and "0.895" for "0.915" in cl. (G).

Pub. L. 92–336, § 205(b), struck out "and" preceding "(D)", inserted reference to self-employment income before January 1, 1973 in cl. (D), and added cls. (E), (F), and (G).

Subsec. (g)(1)(A). Pub. L. 92–603, § 305(a), added references to subchapter XVI of this chapter and provisions relating to the general revenues of the United States with respect to subchapter XVI of this chapter and to the appropriations made pursuant to section 1381 of this title.

Subsec. (l). Pub. L. 92–603, § 132(c), added subsec. (l).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 132(f) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (a) and (b) and enacting subsec. (i) of this section and amending sections 1395i and 1395t(a) of this title] shall apply with respect to gifts and bequests received after the date of enactment of this Act [Oct. 30, 1972]."

Section 305(c) of Pub. L. 92–603 provided that: "The provisions of this section [amending subsec. (g)(1)(A) of this section and enacting provisions set out as a note under this section] shall become effective on the date of enactment of this Act [Oct. 30, 1972]."

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–603 provided in part that Pub. L. 92–603 [enacting sections 431, 801 to 805, 1320a–1, 1320a–2, 1320c to 1320c–19, 1381a, 1382a to 1382e, 1383a to 1383c, 1395i–2, 1395mm, 1395nn, 1395*oo*, 1395pp, 1396h, 1396i, and 3502a of this title and section 228s–3 of Title 45, Railroads, amending this section and sections 302, 306, 402, 403, 405, 408, 409, 410, 410 note, 411, 414, 415, 416, 418, 422, 423, 424a, 425, 426, 427, 429, 430, 602, 603, 620, 705, 706, 709, 1202, 1206, 1301, 1306, 1308, 1352, 1355, 1381, 1382, 1383, 1385, 1395b–1, 1395c, 1395f, 1395h, 1395i, 1395j, 1395k, 1395*l*, 1395n, 1395*o*, 1395p, 1395q, 1395r, 1395s, 1395t, 1395u, 1395w, 1395x, 1395y, 1395z, 1395aa, 1395bb, 1395cc, 1395dd, 1395ff, 1395gg, 1395ii, 1395kk, 1395*ll*, 1395mm, 1395nn, 1396a, 1396b, 1396b–1, 1396d, 1396g, 1396h, and 1396i of this title, sections 5315 and 5316 of Title 5, Government Organization and Employees, sections 1431, 2012, 2019, and 2023 of Title 7, Agriculture, and sections 1401, 1402, 3101, 3111, 3121, 6051, and 6413 of Title 26, Internal Revenue Code, repealing sections 301 to 306, 1201 to 1206, 1351, 1352, 1353, 1354, 1355, and 1396e of this title and section 639 of Title 25, Indians, and enacting provisions set out as notes under this section and sections 301, 302, 402, 403, 408, 409, 410, 411, 414, 415, 416, 418, 423, 424a, 426, 429, 602, 620, 705, 801, 1301, 1306, 1308, 1320a–1, 1320b, 1381, 1382e, 1395f, 1395*l*, 1395n, 1395p, 1395q, 1395s, 1395u, 1395w, 1395x, 1395aa, 1395cc, 1395ff, 1395gg, 1395mm, 1395nn, 1395*oo*, 1395pp, 1396a, 1396b, 2396d, and 1396e of this title, section 5315 of Title 5, Government Organization and Employees, sections 1431 and 2012 of Title 7, Agriculture, section 639 of Title 25, Indians, and sections 1401, 6051, and 6413 of Title 26, Internal Revenue Code] may be cited as the "Social Security Amendments of 1972".

ADVANCES FROM TRUST FUNDS FOR ADMINISTRATIVE EXPENSES

Section 305(b) of Pub. L. 92–603 provided that:

"(1) Sums appropriated pursuant to section 1601 of the Social Security Act [section 1381 of this title] shall be utilized from time to time, in amounts certified under the second sentence of section 201(g)(1)(A) of such Act [subsec. (g)(1)(A) of this section], to repay the Trust Funds for expenditures made from such Funds in any fiscal year under section 201(g)(1)(A) of such Act (as amended by subsection (a) of this section) [amending subsec. (g)(1)(A) of this section] on account of the costs of administration of title XVI of such Act (as added by section 301 of this Act) [subchapter XVI of this chapter].

"(2) If the Trust Funds have not theretofore been repaid for expenditures made in any fiscal year (as described in paragraph (1)) to the extent necessary on account of—

"(A) expenditures made from such Funds prior to the end of such fiscal year to the extent that the amount of such expenditures exceeded the amount of the expenditures which would have been made from such Funds if subsection (a) had not been enacted,

"(B) the additional administrative expenses, if any, resulting from the excess expenditures described in subparagraph (A), and

"(C) any loss in interest to such Funds resulting from such excess expenditures and such administrative expenses,

in order to place each such Fund in the same position (at the end of such fiscal year) as it would have been in if such excess expenditures had not been made, the amendments made by subsection (a) shall cease to be effective at the close of the fiscal year following such fiscal year.

"(3) As used in this subsection, the term 'Trust Funds' has the meaning given it in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]."

GIFTS AND BEQUESTS FOR THE USE OF THE UNITED STATES AND FOR EXCLUSIVELY PUBLIC PURPOSES

Section 132(g) of Pub. L. 92–603 provided that: "For the purpose of Federal income, estate, and gift taxes, any gift or bequest to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust

Fund, or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through any of such Funds, which is accepted by the Managing Trustee of such Trust Funds under the authority of section 201(i) of the Social Security Act [subsec. (i) of this section], shall be considered as a gift or bequest to or for the use of the United States and as made for exclusively public purposes."

APPOINTMENT AND COMPENSATION OF INDIVIDUALS NECESSARY TO ASSIST THE BOARD OF TRUSTEES

Section 8(e) of Pub. L. 94–202 provided that: "Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act [subsec. (g)(4) of this section] may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently."

METHOD OF DETERMINING COSTS PRESCRIBED BY THE BOARD OF TRUSTEES; CERTIFICATION AND TRANSFER OF FUNDS

Section 8(f) of Pub. L. 94–202 provided that: "The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act [subsec. (g)(1)(A)(ii) of this section] before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act [subsec. (g)(4) of this section]. The determination pursuant to section 201(g)(1)(B) of the Social Security Act [subsec. (g)(1)(B) of this section] with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act [section 432 of this title], which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 417, 418, 421, 1320b–1, 1395i, 1395t of this title; title 26 section 3121.

§ 402. Old-age and survivors insurance benefit payments.

(a) Old-age insurance benefits.

Every individual who—

* * * * *

shall be entitled to an old-age insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q) and subsection (w) of this section, such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 415(a) of this title) for such month.

(b) Wife's insurance benefits.

(1) The wife (as defined in section 416(b) of this title) and every divorced wife (as defined in section 416(d) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

* * * * *

(C) in the case of a divorced wife, is not married, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s) of this section) be entitled to a wife's insurance benefit for each month, beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

(E) she dies,

(F) such individual dies,

(G) in the case of a wife, they are divorced and either (i) she has not attained age 62, or (ii) she has attained age 62 but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective,

(H) in the case of a divorced wife, she marries a person other than such individual,

(I) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(J) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

* * * * *

(d) Child's insurance benefits.

(1) Every child (as defined in section 416(e) of this title) of an individual entitled to old-age or disability insurance benefits or of an individual who dies a fully or currently insured individual, if such child—

* * * * *

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 423(d) of this title) which began before he attained the age of 22, and

* * * * *

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies or marries,

* * * * *

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month; or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 423(d) of this title except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

* * * * *

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A)(i) is a full-time student or is under a disability (as defined in section 423(d) of this title), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student or (ii) the month in which he attains the age of 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

(7) For the purposes of this subsection—

* * * * *

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—

(A) an individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1)(C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D)(i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adop-

tion (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefits, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

(9)(A) A child who is a child of an individual under clause (3) of the first sentence of section 416(e) of this title and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

(e) Widow's insurance benefits.

(1) The widow (as defined in section 416(c) of this title) and every surviving divorced wife (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

* * * * *

(C) (i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual,

shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 65 on or before that last day of such third month).

(2)(A) Except as provided in subsection (q) of this section, paragraph (4) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q) of this section, the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q) of this section) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q) of this section) for such month if such individual were still living, and

(ii) 82½ percent of the primary insurance amount of such deceased individual.

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

* * * * *

(6) The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (5) begins.

(7) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(f) Widower's insurance benefits.

(1) The widower (as defined in section 416(g) of this title) of an individual who died a fully insured individual, if such widower—

* * * * *

(B) (i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of the title) which began before the end of the period specified in paragraph (6).

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title,

* * * * *

(E) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

* * * * *

(G) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

* * * * *

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or, if he became entitled to such benefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).

* * * * *

(3)(A) Except as provided in subsection (q) of this section, paragraph (5) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of his deceased wife.

(B) If the deceased wife (on the basis of whose wages and self-employment income a widower is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q) of this section, the widower's insurance benefit of such widower for any month shall, if the amount of the widower's insurance benefit of such widower (as determined under subparagraph (A) and after application of subsection (q) of this section) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased wife would have been entitled (after application of subsection (q) of this section) for such month if such wife were still living; and

(ii) 82½ percent of the primary insurance amount of such deceased wife;

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

* * * * *

(5) If a widower, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (4) of this subsection), such marriage shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (3) of this subsection and subsection (q) of this section, such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

(6) The period referred to in paragraph (1)(B)(ii), in the case of any widower, is the period beginning with whichever of the following is the latest:

* * * * *

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(7) The waiting period referred to in paragraph (1)(G), in the case of any widower, is the earliest period of five consecutive calendar months—

* * * * *

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (6) begins.

(8) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(g) Mother's insurance benefits.

(1) The widow and every surviving divorced mother (as defined in section 416(d) of this title) of an individual who died a fully or currently insured individual, if such widow or surviving divorced mother—

* * * * *

(F) in the case of a surviving divorced mother—

(i) the child referred to in subparagraph (E) is her son, daughter, or legally adopted child, and

(ii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s) of this section) be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or surviving divorced mother becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

* * * * *

(i) Lump-sum death payments.

* * * * *

(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses;

(3) if the body of such insured individual is not available for burial but expenses were incurred with respect to such individual in connection with a memorial service, a memorial marker, a site for the marker, or any other item of a kind for which expenses are customarily incurred in connection with a death and such expenses have been paid, to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such expenses; or

(4) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1), (2), and (3), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

* * * * *

(k) Simultaneous entitlement to benefits.

* * * * *

(2)(A) Any child who under the preceding provisions of this section is entitled for any month to child's insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month. Such child's insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child's insurance benefits for such month shall be the largest benefit to which such child could be entitled under subsection (d) of this section (without the application of section 403(a) of this title) or subsection (m) of this section if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 403(a) of this title) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest primary insurance amount. Where more than one child is entitled to child's insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual.

* * * * *

(3)(A) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q), subsection (e)(2) or (f)(3) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q) of this section).

* * * * *

(l) Entitlement to survivor benefits under Railroad Retirement Act.

If any person would be entitled, upon filing application therefor to an annuity under section 231a

of Title 45, or to a lump-sum payment under section 231e(b) of Title 45, with respect to the death of an employee (as defined in section 231 of Title 45) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid under this section to any person on the basis of the wages and selfemployment income of such employee.

(m) Minimum survivor's benefit.

(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1) of this section) entitled to a monthly benefit under this section for such month on the basis of such wages and self-employment income, such individual's benefit amount for such month, prior to reduction under subsection (k)(3) of this section, shall be not less than the first amount appearing in column IV of the table in (or deemed to be in) section 415(a) of this title, except as provided in paragraph (2).

(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f) of this section, such individual's benefit amount, after reduction under subsection (q)(1) of this section, shall be not less than—

(A) $84.50, if his first month of entitlement to such benefit is the month in which such individual attained age 62 or a subsequent month, or

(B) $84.50 reduced under subsection (q)(1) of this section as if retirement age as specified in subsection (q)(6)(A)(ii) of this section were age 62 instead of the age specified in subsection (q)(9) of this section, if his first month of entitlement to such benefit is before the month in which he attained age 62.

(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) of this section for a month prior to any month after 1972 for which a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title) or a benefit increase under section 415(i) of this title becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) of this section pursuant to paragraph (2)(B) and subsection (q)(4) of this section.

* * * * *

(q) Reduction of benefit amounts for certain beneficiaries.

(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) $\frac{5}{9}$ of 1 percent of such amount if such benefit is an old-age insurance benefit, $\frac{25}{36}$ of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, or $\frac{19}{40}$ of 1 percent of such amount if such benefit is a widow's or widower's insurance benefit, multiplied by—

(B)(i) the number of months in the reduction period for such benefit (determined under paragraph (6)(A)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age;

and in the case of a widow or widower whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

(C) $\frac{43}{240}$ of 1 percent of the amount of such benefit, multiplied by—

(D)(i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)(B)), if such benefit is for a month before the month in which such individual attains age 62, or

(ii) if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains age 62 or any month thereafter.

* * * * *

(3)(A) * * *

* * * * *

(E) If the first month for which an individual is entitled to an old-age insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she attained retirement age, then such old-age insurance benefit shall be reduced by whichever of the following is the larger:

* * * * *

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance

benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such disability insurance benefit for each month shall be reduced by whichever of the following is larger:

* * * * *

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's insurance benefit, then such disability insurance benefit for each month shall be reduced by the amount such widow's or widower's insurance benefit would be reduced under paragraphs (1) and (4) for such month as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before the first month for which he most recently became entitled to a disability insurance benefit.

(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1).

* * * * *

(7) For purposes of this subsection the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6)(A) for such benefit, and the "additional adjusted reduction period" for an individual's, widow's, or widower's insurance benefit is the additional reduction period prescribed by paragraph (6)(B) for such benefit, excluding from each such period—

* * * * *

(E) in the case of widow's or widower's insurance benefits, any month before the month in which she or he attained age 62, and also for any later month before the month in which he attained retirement age, for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

* * * * *

(9) For purposes of this subsection, the term "retirement age" means age 65.

* * * * *

(s) Child aged 18 or over attending school.

(1) For the purposes of subsections (b)(1), (g)(1), (q)(5), and (q)(7) of this section and paragraphs (2), (3), and (4) of section 403(c) of this title, a child who is entitled to child's insurance benefits under subsection (d) of this section for any month, and who has attained the age of 18 but is not in such month under a disability (as defined in section 423(d) of this title), shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 423(d) of this title) or had been under such a disability in the third month before the month in which such marriage occurred.

(3) Subsections (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence of subsection (c) of section 403 of this title, subsection (f)(1)(C) of section 403 of this title, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 416 of this title shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 423(d) of this title).

* * * * *

(w) Increase in old-age insurance benefit amounts on account of delayed retirement.

(1) If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 65 (or his benefit payable at such age is not reduced under subsection (q) of this section), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 415(a)(3) of this title) which is payable without regard to this subsection to such individual shall be increased by—

(A) 1/12 of 1 percent of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December 1970 and prior to the month in which such individual attained age 72, and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 414(a) of this title), and

(ii) such individual was not entitled to an old-age insurance benefit or suffered deductions under section 403(b) or 403(c) of this title in amounts equal to the amount of such benefit.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 72 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 403(a) of this title.

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 415(a) of this title and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 415(a) of this title without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph. (As amended Dec. 28, 1971, Pub. L. 92–223, § 1, 85 Stat. 802; Oct. 30, 1972, Pub. L. 92–603, title I, §§ 102(a), (b), (d)–(f), 103 (a), (b), 107(a), 108 (a)–(e), 109(a), 110(a), 111(a), 112(a), 113(b), 114 (a)–(c), 116(b), (c), 86 Stat. 1335, 1336, 1338–1340, 1343–1348, 1350; July 9, 1973, Pub. L. 93–66, title II, § 240(a), 87 Stat. 161; Dec. 31, 1973, Pub. L. 93–233, §§ 1(f), (g), 18(b), 87 Stat. 947, 948, 967; Oct. 16, 1974, Pub. L. 93–445, title III, § 301, 88 Stat. 1357.)

REFERENCES IN TEXT

Section 102(g) of the Social Security Amendments of 1972, referred to in subsec. (e)(7), (f)(8), is set out as a note under this section entitled "Redetermination of Widow's and Widower's Benefits for December 1972 and After to Provide for 1972 Increases.

AMENDMENTS

1974—Subsec. (*l*). Pub. L. 93–445 substituted "annuity under section 231a of Title 45, or to a lump-sum payment under section 231e(b) of Title 45, with respect to the death of an employee (as defined in section 231 of Title 45)" for "annuity under section 228e of Title 45 or to a lump-sum payment under subsection (f)(1) of section 228e of Title 45 with respect to the death of an employee (as defined in section 228a of Title 45)".

1973—Subsec. (d)(8)(D)(ii). Pub. L. 93–66 added item (III).

Subsec. (e)(7). Pub. L. 93–233, § 1(f), added par. (7).

Subsec. (f)(8). Pub. L. 93–233, § 1(g), added par. (8).

Subsec. (w)(5). Pub. L. 93–233, § 18(b), added par. (5).

1972—Subsec. (a). Pub. L. 92–603, § 103(b), inserted reference to subsection (w) of this section.

Subsec. (b)(1). Pub. L. 92–603, § 114(a), struck out subpar. (D) which covered support aspects involved with a divorced wife and redesignated subpars. (E) through (L) and subpars. (D) through (K), respectively.

Subsec. (d)(1). Pub. L. 92–603, §§ 108(a)–(c), 112 (a), substituted "age of 22" for "age of eighteen" in subpar.(B)(ii), struck out provisions covering adoption in subpar. (D), inserted "but only if he was not under a disability (as so defined) in such earlier month" in subpar. (F), substituted "age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22" for "age of 18" and inserted "but only if he was not under a disability (as so defined) in such earlier month" following "attains the age of 22" in subpar. (G), and added provision prohibiting payments under par. (1) to a child who would not meet the definition of disability in section 423(d) of this title except for par. (1)(B) thereof for any month in which he engages in substantial gainful activity.

Subsec. (d)(6). Pub. L. 92–603, § 108(d), designated existing provisions as subpars. (A), (C), and (D), added subpars. (B) and (E), inserted "or is under a disability (as defined in section 423(d) of this title)" in subpar. (A)(i) as so redesignated, and inserted "but only if he is not under a disability (as so defined) in such earlier month" in subpar. (D)(ii) as so redesignated.

Subsec. (d)(7). Pub. L. 92–603, § 109(a), added subpar. (D).

Subsec. (d)(8). Pub. L. 92–603, § 111(a), combined into subsec. (d)(8) the provisions formerly set out in both subsecs. (d)(8) and (d)(9) covering adoptions by disability and old-age insurance beneficiaries and struck out provisions covering supervision of an adoption by a public or private child placement agency and provisions covering a special category of adoptions during the 24-month period beginning with the month after the month in which the individual most recently became entitled to disability insurance benefits or became entitled to old-age insurance benefits.

Subsec. (d)(9). Pub. L. 92–603, § 113(b), added subsec. (d)(9). Former subsec. (d)(9) incorporated, as amended, into subsec. (d)(8).

Subsec. (e)(1). Pub. L. 92–603, §§ 102(a)(1), 114(b)(1), struck out subpar. (D) which covered support aspects involved with a surviving divorced wife and redesignated subpars. (E) through (G) as subpars. (D) through (F), respectively, substituted "the primary insurance amount" for "82½ percent of the primary insurance amount" in subpar. (D) and in the provisions following subpar. (F), substituted "entitled to wife's insurance benefits," for "entitled, after attainment of age 62, to wife's insurance benefits," in subpar. (C)(i), inserted "and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title," at the end of subpar. (C)(i), and substituted "age 65" for "age 62" in subpar. (C)(ii) and in the provisions following subpar. (F).

Subsec. (e)(2). Pub. L. 92–603, § 102(a)(2), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated added reference to subpar. (B) of this par. and substituted "the primary insurance amount" for "82½ percent of the primary amount".

Subsec. (e)(6). Pub. L. 92–603, §§ 114(b)(2), 116(b), substituted "five", "seventeenth", and "fifth" for "six", eighteenth", and "sixth", respectively, and "paragraph (1)(F)" for "paragraph (1)(G)".

Subsec. (f)(1). Pub. L. 92–603, §§ 102(b)(1), 107(a)(1), (2), substituted "age 60" for "age 62" in subpar. (B), substituted "the primary insurance amount" for "82½ percent of the primary insurance amount" in subpar. (E) and the provisions following subpar. (G), inserted "and

(I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title," at the end of subpar. (C), and substituted "age 65" for "age 62" and inserted ", if he became entitled to such benefits before he attained age 60," preceding "the third month" in the provisions following subpar. (G).

Subsec. (f)(3). Pub. L. 92–603, § 102(b)(2), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated added reference to subpar. (B) of this par. and substituted "the primary insurance amount" for "82½ percent of the primary amount".

Subsec. (f)(5). Pub. L. 92–603, § 107(a)(3), substituted "the age of 60" for "the age of 62".

Subsec. (f)(6). Pub. L. 92–603, § 107(a)(1), substituted "age 60" for "age 62".

Subsec. (f)(7). Pub. L. 92–603, § 116(c), substituted "five", "seventeenth", and "fifth" for "six", "eighteenth", and "sixth", respectively.

Subsec. (g)(1)(F). Pub. L. 92–603, § 114(c), struck out cl. (i) covering the support aspects of a surviving divorced mother and redesignated cl. (ii) and (iii) as cl. (i) and (ii), respectively.

Subsec. (k)(2)(A). Pub. L. 92–603, § 110(a), inserted provisions establishing exceptions to the rule that a child's benefits in the case where the child is entitled on more than one wage record shall be based on the wages and self-employment of the insured individual with the greatest primary insurance amount.

Subsec. (k)(3)(A). Pub. L. 92–603, § 102(d), inserted reference to subsection (e)(2) or (f)(3) of this section.

Subsec. (m). Pub. L. 92–603, § 102(f), amended subsec. generally to increase the minimums on survivor's benefits.

Subsec. (q)(1). Pub. L. 90–603, § 102(e)(1), generally provided for an increase in widow's and widower's insurance benefits through the insertion of provisions covering such benefits in subpar. (A), and in the provisions preceding subpar. (C), and through the substitution of a 43/240 fraction in subpar. (C) for a 43/198 fraction.

Subsec. (q)(3). Pub. L. 92–603, § 102(e)(2)(5), redesignated existing provisions of subpars. (E)(ii) and (F)(ii) as subclauses (I) and (II) and in subclauses (I) of each such subpar. as so redesignated substituted "would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62" for "was reduced for the month in which such individual attained retirement age", substituted in subpar. (G) "as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before" for "had such individual attained age 62 in", and added subpar. (H).

Subsec. (q)(7). Pub. L. 92–603, § 102(e)(3), divided existing source references for "adjusted reduction period" and "additional adjusted reduction period" into separate references to subpars. (A) and (B) of par. (6) in the provisions preceding subpar. (A) and, in subpar. (E), substituted "attained age 62, and also for any later month before the month in which he attained retirement age," for "attained retirement age".

Subsec. (q)(9). Pub. L. 92–603, § 102(e)(4), struck out provisions which had set age 62 as the meaning of the term "retirement age" with respect to a widow's and widower's insurance benefits.

Subsec. (s). Pub. L. 92–603, § 108(e), struck out "which began before he attained such age" following "disability (as defined in section 423(d) of this title)" in par. (1) and struck out "which began before such child attained the age of 18" following "disability (as defined in section 423(d) of this title)" in pars. (2) and (3).

Subsec. (w). Pub. L. 92–603, § 103(a), added subsec. (w).

1971—Subsec. (i)(3). Pub. L. 92–223, § 1(a), added cl. (3).

Subsec. (l)(4). Pub. L. 92–223, § 1(a), (b), redesignated former cl. (3) as (4) and included reference to cl. (3) in the second sentence.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 603 of Pub. L. 93–445 provided that: "The provision of title II of this Act [set out as a note under section 231 of Title 45, Railroads] and the amendments made by title III and title IV of this Act [amending this section and sections 405, 410, 416, 426, 1395s, 1395u, 1395v, 1395gg, 1395kk of this title and sections 352, 354, 360, 361, and 362 of title 45, Railroads] shall become effective on January 1, 1975."

EFFECTIVE DATE OF 1973 AMENDMENT

Section 240(b) of Pub. L. 93–66 provided that: "The amendment made by subsection (a) [enacting item (III) of subsec. (d)(8)(D)(ii) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [July 1973] on the basis of applications for such benefits filed in or after the month in which this Act is enacted [July 1973]."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 102(l) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (e), (f), (k), (m), and (q) of this section and section 403 (c) and (f) of this title and enacting provisions set out as notes under this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 103(d) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (w) of this section and amending subsec. (a) of this section and section 403(a)(2)(C) of this title] shall be applicable with respect to old-age insurance benefits payable under title II of the Social Security Act [this subchapter] for months beginning after 1972."

Section 107(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (f) of this section and sections 403(c), (f)(1)(D), 422(b)(1), (d)(1)(D), and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972, except that in the case of an individual who was not entitled to a monthly benefit under title II of such Act [this subchapter] for December 1972 such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1972]."

Section 108(f) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (d)(1)(6), and (s) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1972 except that in the case of an individual who was not entitled to a monthly benefit under such section 202 [this section] for December 1972 such amendments shall apply only on the basis of an application filed after September 30, 1972."

Section 109(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [adding subsec. (d)(7)(D) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 110(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (k)(2)(A) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 111(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (d)(8) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1967 on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1972], except that such amendments shall not apply with respect to benefits for any month before the month in which this Act is enacted [Oct. 1972] unless such application is filed before the close of the sixth month after the month in which this Act is enacted [Oct. 1972]."

Section 113(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (d)(9) of this section and amending section 416(e) of this title] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972, but only on the basis of applications filed on or after the date of the enactment of this Act [Oct. 30, 1972]."

Amendment of subsecs. (e)(6) and (f)(7) of this section by section 116 (b), (c), of Pub. L. 92–603 effective

with respect to applications for widow's and widower's insurance benefits based on disability under this section filed in or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 116(e) of Pub. L. 92–603, set out as a note under section 423 of this title.

Section 112(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [striking out provisions covering this subchapter] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Oct. 1972]."

Section 114(d) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (b)(1), (e)(1), (6), and (g)(1)(F) of this section to eliminate support requirements as condition of benefits] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed on or after the date of enactment of this Act [Oct. 30, 1972]."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92–223 provided that: "The amendments made by the first section of this Act [enacting subsec. (l)(3) and amending subsec. (l)(4) of this section] shall be effective only in the case of lump-sum death payments under title II of the Social Security Act [this subchapter] made with respect to deaths which occur after December 31, 1970."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Pub. L. 94–12, title VII, § 702, Mar. 29, 1975, 89 Stat. 66, provided that:

"(a) *Payment.*—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act [Mar. 29, 1975], make a $50 payment to each individual, who for the month of March, 1975, was entitled (without regard to sections 202(j)(1) and 223(b) of title II of the Social Security Act [subsec. (j)(1) of this section and section 423(b) of this title] and without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974) [section 231d(a)(ii) of Title 45, Railroads] to—

"(1) a monthly insurance benefit payable under title II of the Social Security Act [this subchapter],

"(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974 [sections 215 et seq., 228a et seq. or 231 et seq. of Title 45], or

"(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act [section 1381 et seq. of this title];

except that, (A) such $50 payment shall be made only to individuals who were paid a benefit for March 1975 in a check issued no later than August 31, 1975; (B) no such $50 payment shall be made to any individual who is not a resident of the United States (as defined in section 210(i) of the Social Security Act [section 410(i) of this title]); and (C) if an individual is entitled under two or more of the programs referred to in clauses (1), (2), and (3), such individual shall be entitled to receive only one such $50 payment. For purposes of this subsection, the term "resident" means an individual whose address of record for check payment purposes is located within the United States.

"(b) *Recipient identification.*—The Secreary of Health, Education, and Welfare and the Railroad Retirement Board shall provide the Secretary of the Treasury with such information and data as may be needed to enable the Secretary of the Treasury to ascertain which individuals are entitled to the payment authorized under subsection (a).

"(c) *Coordination with other federal programs.*—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any State (or local) welfare program for any calendar quarter commencing after the date of enactment of this Act [Mar. 29, 1975].

"(d) *Appropriations authorization.*—There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

"(e) *Payment not to be considered income.*—Payments made under this section shall not be considered as gross income for purposes of the Internal Revenue Code of 1954."

COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS; EFFECTIVE DATE; CONSUMER PRICE INDEX PERCENTAGE

Section 201 of Pub. L. 93–66, as amended by Pub. L. 93–233, § 1(a)–(e), Dec. 30, 1973, 87 Stat. 947, provided that:

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall, in accordance with the provisions of this section, increase the monthly benefits and lump-sum death payments payable under title II of the Social Security Act [this subchapter] by 7 per centum.

"(2) The provisions of this section (and the increase in benefits made hereunder) shall be effective, in the case of monthly benefits under title II of the Social Security Act [this subchapter] only for months after February 1974 and prior to June 1974, and, in the case of lump-sum death payments under such title [this subchapter], only with respect to deaths which occur after February 1974 and prior to June 1974.

"(b) The increase in social security benefits authorized under this section shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act [section 415(i) of this title] for the implementation of cost-of-living increases authorized under title II of such Act [this subchapter] except that—

"(1) the amount of such increase shall be 7 per centum,

"(2) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act [subsec. (e) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(f) of this title]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section [section 415(a)(3) of this title], such increase shall be determined without regard to paragraph (2)(B) of such section 202(e) [subsec. (e) of this section], and

"(3) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act [subsec. (f) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(f) of this title]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section [section 415(a)(3) of this title], such increase shall be determined without regard to paragraph (3)(B) of such section 202(f) [subsec. (f) of this section].

"(c) The increase in social security benefits provided by this section shall—

"(1) not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act [section 415(i) of this title], and

"(2) not (except for purposes of section 203(a)(2) of such Act [section 403(a)(2) of this title], as in effect after February 1974) be considered to be a 'general benefit increase under this title' [this subchapter] (as such term is defined in section 215(i)(3) of such Act) [section 415(i)(3) of this title];

and nothing in this section shall be construed as authorizing any increase in the 'contribution and benefit base' (as that term is employed in section 230 of such Act) [section 430 of this title], or any increase in the

'exempt amount' (as such term is used in section 203(f)(8) of such Act [section 403(f)(8) of this title]).

"(d) Nothing in this section shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act [this subchapter] for any month after May 1974, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after May 1974. The recognition of the existence of the increase in benefits authorized by the preceding subsections of this section (during the period it was in effect) in the application, after May 1974, of the provisions of sections 202(q) and 203(a) of such Act [subsec. (q) of this section and section 403(a) of this title] shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after May 1974."

MARCH THROUGH MAY 1974 MONTHLY INSURANCE BENEFIT FOR ONLY INDIVIDUAL ENTITLED TO BENEFIT ON BASIS OF WAGES AND SELF-EMPLOYMENT INCOME OF DECEASED INDIVIDUAL

Section 1(1) of Pub. L. 93-233 provided that: "In the case of an individual to whom monthly benefits are payable under title II of the Social Security Act [this subchapter] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(b) of this title]), and to whom section 202(m) of such Act [subsec. (m) of this section] is applicable for such month, such section [this section] shall continue to be applicable to such benefits for the months of March through May 1974 for which such individual remains the only individual entitled to a monthly benefit on the basis of the wages and self-employment income of the deceased insured individual."

REDETERMINATION OF WIDOW'S AND WIDOWER'S BENEFITS FOR DECEMBER 1972 AND AFTER TO PROVIDE FOR 1972 INCREASES

Section 102(g) of Pub. L. 92-603 provided that:

"(1) In the case of an individual who is entitled to widow's or widower's insurance benefits for the month of December 1972 the Secretary shall, if it would increase such benefits, redetermine the amount of such benefits for months after December 1972 under title II of the Social Security Act [this subchapter] as if the amendments made by this section [amending this section and section 403 of this title] had been in effect for the first month of such individual's entitlement to such benefits.

"(2) For purposes of paragraph (1)—

"(A) any deceased individual on whose wages and self-employment income the benefits of an individual referred to in paragraph (1) are based, shall be deemed not to have been entitled to benefits if the record, of insured individuals who were entitled to benefits, that is readily available to the Secretary contains no entry for such deceased individual; and

"(B) any deductions under subsections (b) and (c) of section 203 of such Act [section 403 of this title], applicable to the benefits of an individual referred to in paragraph (1) for any month prior to September 1965, shall be disregarded in applying the provisions of section 202(q)(7) of such Act [subsec. (q)(7) of this section] (as amended by this Act) [Pub. L. 92-603]."

ADJUSTMENT OF BENEFITS BASED ON DISABILITY WHICH BEGAN BETWEEN AGE 18 AND 22

Section 108(g) of Pub. L. 92-603 provided that:

"Where—

"(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) [subsec. (j)(1) of this section and section 423(b) of this title] to monthly benefits under section 202 or 223 of such Act [this section or section 423 of this title] for December 1972 on the basis of the wages and self-employment income of an insured individual, and

"(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202 or 223 [this section or section 423 of this title] for January 1973 solely by reason of the amendments made by this section on the basis of such wages and self-employment income, and

"(3) the total of benefits to which all persons are entitled under such sections 202 and 223 [this section and section 423 of this title] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title] as amended by this Act [Pub. L. 92-603], or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced),

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for months after December 1972 shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

TERMINATION OF CHILD'S INSURANCE BENEFITS BY REASON OF ADOPTION

Section 112(c) of Pub. L. 92-603 provided that:

"Any child—

"(1) whose entitlement to child's insurance benefits under section 202(d) of the Social Security Act [subsec. (d) of this section] was terminated by reason of his adoption, prior to the date of the enactment of this Act [Oct. 30, 1972], and

"(2) who, except for such adoption, would be entitled to child's insurance benefits under such section for a month after the month in which this Act is enacted [Oct. 30, 1972],

may, upon filing application for child's insurance benefits under the Social Security Act after the date of enactment of this Act [Oct. 30, 1972], become reentitled to such benefits; except that no child shall, by reason of the enactment of this section, become reentitled to such benefits for any month prior to the month after the month in which this Act is enacted [Oct. 1972]."

SAVINGS CLAUSE; WIDOW'S AND WIDOWER'S BENEFITS FOR DECEMBER 1972 AND JANUARY 1973

Section 102(h) of Pub. L. 92-603 provided that:

"Where—

"(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act [this section] for December 1972 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section] and

"(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section] (as amended by this section) for January 1973, and

"(3) the total of benefits to which all persons are entitled under section 202 of such Act [this section] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title], as amended by this Act [Pub. L. 92-603] (or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1972 shall in no case be less after the application of this section and such section 203(a) [section 403(a) of this title] than the amount it would have been without the application of this section."

SAVINGS PROVISIONS FOR BENEFITS AS SURVIVING DIVORCED MOTHER; ADJUSTMENT OF BENEFITS

Section 114(e) of Pub. L. 92-603 provided that:

"Where—

"(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) [subsec. (j)(1) of this section and section 423(b) of this title] to monthly benefits under section 202 or 223 of such Act [this section or section 423 of this title] for December 1972 on the basis of the wages and self-employment income of an insured individual, and

"(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202(g) [subsec. (g) of this section] as a surviving divorced mother (as defined in section 216(d)(3) [section 416(d)(3) of this title]) for a month after December 1972 on the basis of such wages and self-employment income, and

"(3) the total of benefits to which all persons are entitled under such section 202 and 223 [this section and section 423 of this title] on the basis of such wages and self-employment income for any month after December 1972 is reduced by reason of section 203(a) of such Act [section 403(a) of this title] as amended by this Act [Pub. L. 92–603] (or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced),

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled beginning with the first month after December 1972 for which any person referred to in paragraph (2) becomes entitled shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 403, 405, 415, 416, 417, 422, 423, 424a, 425, 426, 426a, 427, 428, 1320b–1, 1395l–1, 1395p, 1395s of this title; title 5 section 8332; title 30 sections 902, 922; title 38 sections 412, 422; title 45 sections 231a, 231c, 231e, 231f.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 4–523, 47–1557a of the District of Columbia Code.

§ 403. Reduction of insurance benefits.

(a) Maximum benefits.

Whenever the total of monthly benefits to which individuals are entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in or deemed to be in section 415(a) of this title on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

* * * * *

(2) when two or more persons were entitled (without the application of section 402(j)(1) of this title and section 423(b) of this title) to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the larger of—

(A) the amount determined under the subsection without regard to this paragraph,

(B) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(C) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title) or a benefit increase under the provisions of section 415(i) of this title, an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this subchapter (excluding part thereof determined under under section 402(w) of this title) for the month before such effective month (including this subsection, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B) or (C), and (ii) if section 402(k)(2)(A) of this title was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of subparagraph (B) or (C) shall be applied, for and after the month in which section 402(k)(2)(A) of this title ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for the last month for which subparagraph (B) or (C) was applicable,

(3) when any of such individuals is entitled to monthly benefits as a divorced wife under section 402(b) of this title or as a surviving divorced wife under section 402(e) of this title for any month, the benefit to which she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the wages and self-employment income of such insured individual shall be determined as if no such divorced wife or surviving divorced wife were entitled to benefits for such month,

(4) notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection and section 402(q) of this title are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provision of this subchapter,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month to be considered to have been increased by the smallest amount that would

have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 402(q) of this title) than the total of monthly benefits (after the application of the other provisions of this subsection and section 402(q) of this title) payable on the basis of such wages and self-employment income for such particular month, or

(5) whenever the monthly benefits of such individuals are based on an insured individual's primary insurance amount which is determined under section 415(a)(3) of this title and such primary insurance amount does not appear in column IV of the table in (or deemed to be in) section 415 (a) of this title, the applicable maximum amount in column V of such table shall be the amount in such column that appears on the line on which the next higher primary insurance amount appears in column, IV, or, if larger, the largest amount determined for such persons under this subsection for any month prior to October 1972.

• • • • •

(c) Deductions on account of noncovered work outside the United States or failure to have child in care.

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 402 of this title for any month—

• • • • •

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 402(s) of this title applies or an event specified in section 422(b) of this title occurs with respect to such child. Subject to paragraph (3) of such section 402(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).

• • • • •

(f) Months to which earnings are charged.

For purposes of subsection (b) of this section—

(1) The amount of an individual's excess earnings (as defined in paragraph (3) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 402(s) of this title, no part of the excess earnings of an individual shall be charged to any months (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than $200 or the exempt amount as determined under paragraph (8).

• • • • •

(3) For purposes of paragraph (1) and subsection (h) of this section, an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of $200 or the exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

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(B) an individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph

(5) of this subsection) of more than $200 or the exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

• • • • •

(8)(A) Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subparagraph (A) was made to (II) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case. For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

Whenever the Secretary determines that the exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 415(i)(1)(A) of this title) in such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount is enacted.

• • • • •

(h) Report of earnings to Secretary.

(1)(A) If an individual is entitled to any monthly insurance benefit under section 402 of this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f) of this section, in excess of the product of $200 or the exempt amount as determined under subsection (f)(8) of this section times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant a reasonable extension of time for making the report of earnings required in this paragraph if he finds that there is valid reason for a delay, but in no case may the period be extended more than three months.

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(As amended Mar. 17, 1971, Pub. L. 92–5, title II, § 201(b), 85 Stat. 8; July 1, 1972, Pub. L. 92–336, title II, §§ 201(b), (h)(1), 202(a)(2)(A), (B), 86 Stat. 410, 411, 415; Oct. 30, 1972, Pub. L. 92–603, title I, §§ 101(b), 102(c), 103(c), 105(a), (b), 106(a), 107(b)(1), (2), 144(a)(2), (3), 86 Stat. 1334, 1336, 1340–1343, 1370; July 9, 1973, Pub. L. 93–66, title II, § 202 (a)–(c), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, §§ 3(k), 18(a), 87 Stat. 953, 967; Jan. 2, 1976, Pub. L. 94–202, § 8(i), 89 Stat. 1140.)

AMENDMENTS

1976—Subsec. (f)(8)(B)(ii). Pub. L. 94–202 substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year" in cl. (I), substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of" in cl. (II), and directed that the average wages for calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that year.

1973—Subsec. (f). Pub. L. 93–66, § 202(a), (b) substituted in pars. (1), (3), first sentence, and (4)(B), "$200" for "$175".

Subsec. (f)(8)(A). Pub. L. 93–233, § 3(k)(1), substituted: "with the month of June following" for "with the first month of the calendar year following", "which ends after the calendar year in which such benefit increase is effective" for "which ends with the close of or after the calendar year with the first month of which such benefit increase is effective", and "during the calendar year after the calendar year in which the benefit increase is effective" for "during such calendar year"; and deleted after "such quarter occurs" and preceding "a new exempt amount" the parenthetical text "(along with the publication of such benefit increased as required by section 415(1)(2)(D) of this title)".

Subsec. (f)(8)(B)(ii). Pub. L. 93–233, § 18(a), substituted "exempt amount" for "contribution and benefit base" and "subparagraph (A)" for "section 430(a) of this title", respectively.

Subsec. (f)(8)(B)foll.(ii). Pub. L. 93–233, § 3(k)(2), substituted "within 30 days after the close of the base quarter (as defined in section 415(1)(1)(A) of this title) in such year" for "no later than August 15 of such year".

Subsec. (f)(8)(C). Pub. L. 93–233, § 3(k)(3), struck out after "law increasing the exempt amount" the words "or providing a general benefit increase under this subchapter (as defined in section 415(1)(3) of this title)".

Subsec. (h)(1)(A). Pub. L. 93–66, § 202(c), substituted "$200" for "$175".

1972—Subsec. (a). Pub. L. 92–336, § 202(a)(2)(A), added "in or deemed to be" following "the table".

Subsec. (a)(2). Pub. L. 92–336, § 202(a)(2)(B), as amended by Pub. L. 92–603, §§ 103(c), 144(a)(3), substituted provisions relating to the reduction in the total benefits for any month after January 1971 where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month, for provisions relating to the reduction in the total of benefits for September 1972 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for August 1972.

Pub. L. 92–336, § 201(b), substituted provisions relating to the reduction in the total of benefits for September 1972 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for August 1972, for provisions relating to the reduction in the total of benefits for January 1971 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971.

Subsec. (a)(2)(B). Pub. L. 92–603, § 144(a)(2), added "such" preceding "person".

Subsec. (a)(4). Pub. L. 92–336, § 201(h)(1), added subsec. (a)(4).

Subsec. (a)(5). Pub. L. 92–603, § 101(b), added subsec. (a)(5).

Subsec. (c). Pub. L. 92–603, §§ 102(c)(1), 107(b)(1), substituted "attained age 65 (but only if she became so entitled prior to attaining age (60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60)" for "attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 62".

Subsec. (f)(1). Pub. L. 92–603, §§ 102(c)(2), 105(a)(1), 107(b)(2), substituted "attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60)" for "attained age 62 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 62" in cl. (D) and substituted "$175 or the exempt amount as determined under paragraph (8)" for "$140" in cl. (E).

Subsec. (f)(3). Pub. L. 92–603, §§ 105(a)(3), 106(a), substituted "shall be 50 per centum of his earnings for such year in excess of the product of $175 or the exempt amount as determined under paragraph (8)," for "shall be his earnings for such year in excess of the product of $140" and struck out ", except that of the first $1,200 of such excess (or all of such excess if it is less than $1,200), an amount equal to one-half thereof shall not be included" following "number of months in such year" and added provisions for the exclusion of certain earnings in the year of attaining age 72.

Subsec. (f)(4)(B). Pub. L. 92–603, § 105(a)(1), substituted "$175 or the exempt amount as determined under paragraph (8)" for "$140".

Subsec. (f)(8). Pub. L. 92–603, § 105(b), added par. (8).

Subsec. (h)(1)(A). Pub. L. 92–603, 105(a)(2), substituted "$175 or the exempt amount as determined under subsection (f)(8) of this section" for "$140".

1971—Subsec. (a)(2). Pub. L. 92–5 substituted references to January 1971 for references to January 1970, substituted "December 1970" for "December 1969", and, in subpar. (B), substituted "prior to March 17, 1971" for "prior to December 30, 1969 (and prior to January 1, 1970)", and lowered the multiple of the benefit amount from 115 percent to 110 percent.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 202(d) of Pub. L. 93–66 provided that: "The amendments [of subsecs. (f)(1), (3), (4)(B) and (h)(1)(A) of this section] made by this section shall be effective with respect to taxable years beginning after December 31, 1973."

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment of subsec. (a) of this section by section 101(b) of Pub. L. 92–603 applicable with respect to monthly insurance benefits under this subchapter for months after Dec. 1972 and with respect to lump-sum death payments under this subchapter in the case of deaths occurring after such month, see section 101(g) of Pub. L. 92–603, set out as a note under section 415 of this subchapter.

Section 202(a)(2)(A) of Pub. L. 92–336 provided in part that the amendment to subsec. (a) of this section shall take effect January 1, 1974.

Section 202(a)(2)(B) of Pub. L. 92–336 provided in part that the amendment to subsec. (a)(2) of this section shall take effect January 1, 1974.

Amendment of subsec. (a)(2) of this section by section 201(b) of Pub. 92–336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after such month, see section 201(i) of Pub. L. 92–336, set out as a note under section 415 of this title.

Section 144(b) of Pub. L. 92–603 provided that: "The amendments made by each of the paragraphs in subsection (a) [amending subsec. (a)(2)(B) of this section and subsec. (a)(2)(C), eff. Jan. 1, 1974, set out in italicized note under this section and sections 415(a) and 430(b)(2) of this title] shall be effective in like manner as if such amendment had been included in title II of Public Law 92–336 in the particular provision of such title referred to in such paragraph."

Amendment of subsec. (a)(4) of this section by section 201(h)(1) of Pub. L. 92–336 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1971, see section 201(i) of Pub. L. 92–336, set out as a note under section 415 of this title.

Amendment of subsecs. (c) and (f) of this section by section 102(c) of Pub. L. 92–603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, see section 102(i) of Pub. L. 92–603, set out as a note under section 402 of this title.

Amendment of subsecs. (c) and (f)(1)(D) of this section by section 107(b) (1), (2) of Pub. L. 92–603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92–603, set out as a note under section 402 of this title.

Section 105(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (f) and (h) of this section] shall apply with respect to taxable years ending after December 1972."

Section 106(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (f)(3) of this section to provide for the exclusion of certain earnings in year of attaining age 72] shall apply

with respect to taxable years ending after December 1972."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable with respect to monthly benefits under subchapter II of this chapter for months after Dec. 1970 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring in and after March 1971, see section 201(e) of Pub. L. 92–5, set out as a note under section 415 of this title.

SAVINGS PROVISION

Section 201(h)(2) of Pub. L. 92–336 provided that: "In any case in which the provisions of section 1002(b)(2) of the Social Security Amendments of 1969 [set out as a note under this section] were applicable with respect to benefits for any month in 1970, the total of monthly benefits as determined under section 203(a) of the Social Security Act [subsec. (a) of this section] shall, for months after 1970, be increased to the amount that would be required in order to assure that the total of such monthly benefits (after the application of section 202(q) of such Act [section 402(q) of this title]) will not be less than the total of monthly benefits that was applicable (after the application of such sections 203(a) and 202(q) for the first month for which the provisions of such section 1002(b)(2) applied."

COST-OF-LIVING INCREASE IN BENEFITS

For purposes of subsec. (f)(8) of this section, the increase in benefits provided by section 2 of Pub. L. 93–233, revising benefits table of section 415(a) of this title and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93–233, set out as a note under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 408, 415, 424a, 1382a of this title; title 10 section 1451; title 26 section 1402; title 30 section 922; title 45 sections 231a, 231q.

§ 404. Overpayments and underpayments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 1320b–1 of this title; title 20 section 880b–2; title 30 section 923.

§ 405. Evidence, procedure, and certification for payments.

* * * * *

(b) Administrative determination of entitlement to benefits; findings of fact; hearings; investigations.

The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) Wage records.

* * * * *

(2)(A) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(B)(i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and

(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment;

and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers:

(IV) to or on behalf of children who are below school age at the request of their parents or guardians; and

(V) to children of school age at the time of their first enrollment in school.

(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security ac-

count number has previously been assigned to such individual.

(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including non-public school authorities).

* * * * *

(i) Certification for payment.

Upon final decision of the Secretary or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary (except that in the case of (A) an individual who will have completed ten years of service creditable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 231a of Title 45, and (D) any other person entitled to benefits under section 402 of this title on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974): *Provided*, That where a review of the Secretary's decision is or may be sought under subsection (g) of this section the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary.

* * * * *

(o) Crediting of compensation under Railroad Retirement Act.

If there is no person who would be entitled, upon application therefor, to an annuity under section 231a of Title 45, or to a lump-sum payment under section 231e(b) of Title 45, with respect to the death of an employee (as defined in section 231 of Title 45), then, notwithstanding section 410 (a) (10) of this title, compensation (as defined in section 231 of Title 45, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 231b(i) of Title 45 if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 137, 86 Stat. 1364; Oct. 16, 1974, Pub. L. 93–445, title III, §§ 302(a), 303, 88 Stat. 1358; Jan. 2, 1976, Pub. L. 94–202, § 4, 89 Stat. 1136.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsec. (i), is classified to section 228a et seq. of Title 45, Railroads.

The Railroad Retirement Act of 1974, referred to in subsec. (i), is classified to section 231 et seq. of Title 45, Railroads.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–202 substituted provisions that a request for a hearing following the decision of the Secretary be made within sixty days after notice of such decision is received for provisions which authorized the Secretary to prescribe by regulation the period within which to file a request, including the limitation that the period so prescribed be not less than six months after notice of the decision was mailed.

1974—Subsec. (i). Pub. L. 93–445, § 302(a), added parenthetical provision covering service under the Railroad Retirement Acts of 1937 and 1974 and certification to the Railroad Retirement Board and payment on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974.

Subsec. (o). Pub. L. 93–445, § 303, substituted "annuity under section 231a of Title 45, or to a lump-sum payment under section 231e(b) of Title 45, with respect to the death of an employee (as defined in section 231 of Title 45), then, notwithstanding section 410(a)(10) of this title, compensation (as defined in section 231 of Title 45, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 231b(i) of Title 45" for "annuity under section 228e of Title 45, or to a lump-sum payment under subsection (f)(1) of section 228e of Title 45 with respect to the death of an employee (as defined in sections 228 to 228c–1, 228e to 228s–1 of Title 45), then, notwithstanding section 410(a)(10) of this title, compensation (as defined in sections 228 to 228c–1, 228e to 228s–1 of Title 45, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 228c–1 of Title 45".

1972—Subsec. (c)(2). Pub. L. 92–603 designated existing provisions as par. (A) and added par. (B).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94–202 provided that: "The amendments made by the first two sections of this Act [amending section 1383 of this title], and the provisions of section 3 [set out as a note under section 1383 of this title], shall take effect on the date of the enactment of this Act [Jan. 2, 1976]. The amendment made by section 4 of this Act [amending subsec. (b) of this section] shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The

amendment made by the first section of this Act [amending subsec. (c) of section 1383 of this title], to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act [Jan. 2, 1976]."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 302(b) of Pub. L. 93–445 provided that: "The amendment made by this section [amending subsec. (i) of this section] shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act [this subchapter] after 1974."

Amendment of subsec. (o) of this section by section 303 of Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 408, 415, 418, 421, 424a, 1320c–8, 1320c–9, 1383, 1395y, 1395ff, 1395ii, 1395mm, 1395oo of this title; title 5 section 8503; title 19 section 2312; title 26 section 1402; title 30 section 923.

§ 405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering state and local employees; effective date.

Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after January 2, 1976, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 418(e) of this title. (Pub. L. 94–202, § 7, Jan. 2, 1976, 89 Stat. 1137.)

CODIFICATION

Section was not enacted as part of the Social Security Act, which comprises this chapter.

§ 406. Representation of claimants before the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395ii of this title; title 30 section 923.

§ 407. Assignment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1383 of this title; title 30 section 923.

§ 408. Penalties.

Whoever—

* * * * * *

(e) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(f) willfully, knowingly, and with intent to deceive the Secretary as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Secretary with respect to any information required by the Secretary in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(g) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled—

(1) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Secretary (in the exercise of his authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Secretary by him or by any other person; or

(2) with intent to deceive, falsely represents a number to be the social security account number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 130(a), 86 Stat. 1359.)

AMENDMENTS

1972—Subsecs. (f), (g). Pub. L. 92–603 added subsecs. (f) and (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 130(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [adding subsecs. (f) and (g) of this section] shall apply with respect to information furnished to the Secretary after the date of the enactment of this Act [Oct. 30, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 923.

§ 409. Definition of wages.

For the purposes of this subchapter, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this subchapter under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a)(1) * * *

* * * * * *

(5) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $7,800 with respect to employment has been paid to an individual during any calendar year after 1967 and prior to 1972, is paid to such individual during such calendar year;

(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $9,000 with respect to employment has been paid to an individual during any calendar year after 1971

and prior to 1973, is paid to such individual during any such calendar year;

(7) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $10,800 with respect to employment has been paid to an individual during any calendar year after 1972 and prior to 1974, is paid to such individual during such calendar year;

(8) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $13,200 with respect to employment has been paid to an individual during any calendar year after 1973 and prior to 1975, is paid to such individual during such calendar year;

(9) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to the contribution and benefit base (determined under section 430 of this title) with respect to employment has been paid to an individual during any calendar year after 1974 with respect to which such contribution and benefit base is effective, is paid to such individual during such calendar year;

• • • • •

(l) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 418(b)(2) of this title) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

• • • • •

(*l*) (1) Tips paid in any medium other than cash;

(2) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more;

(m) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(1) upon or after the termination of an employee's employment relationship because of (A) death, (B) retirement for disability, or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer, and

(2) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(n) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died; or

(o) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 423(a) of this title and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made.

• • • • •

For purposes of this subchapter, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of Title 26, or (if no statement including such tips is so furnished) at the time received.

For purposes of this subchapter, in any case where an individual is a member of a religious order (as defined in section 3121(r)(2) of Title 26) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of Title 26 is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than $100 a month. (As amended Mar. 17, 1971, Pub. L. 92–5, title II, § 203(a)(1), 85 Stat. 10; July 1, 1972, Pub. L. 92–336, title II, § 203(a)(1), 86 Stat. 417; Oct. 30, 1972, Pub. L. 92–603, title I, §§ 104(g), 122(a), 123(c)(1), 138(a), 86 Stat. 1341, 1354, 1356, 1365; July 9, 1973, Pub. L. 93–66, title II, § 203(a)(1), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, § 5(a)(1), 87 Stat. 953.)

AMENDMENTS

1973—Subsec. (a)(8). Pub. L. 93–233 substituted "$13,200" for "$12,600".

Pub. L. 93–66 substituted "$12,600" for "$12,000".

1972—Subsec. (a)(6). Pub. L. 92–336, § 203(a)(1)(A), added "and prior to 1973" after "1971".

Subsec. (a)(7)–(9). Pub. L. 92–336, § 203(a)(1)(B), added subsec. (a)(7)–(9).

Subsec. (l). Pub. L. 92–603, § 104(g), struck out "(if a woman) and age 65 (if a man)" following "attains age 62."

Subsec. (n). Pub. L. 92–603, § 122(a), added subsec. (n).

Subsec. (o). Pub. L. 92–603, § 138(a), added subsec. (o).

Pub. L. 92–603, § 123(c)(1), added paragraph at the end defining "wages" in the case of members of a religious order when an election under section 3121(r) of Title 26 is in effect.

1971—Subsec. (a)(5). Pub. L. 92–5, § 203(a)(1)(A), added "and prior to 1972" after "1967".

Subsec. (a)(6). Pub. L. 92–5, § 203(a)(1)(B), added subsec. (a)(6).

EFFECTIVE DATE OF 1973 AMENDMENTS

Section 5(e) of Pub. L. 93–233 provided that: "The amendments made by this section [to sections 409(a)(8), 411(b)(1)(H), 413(a)(2)(ii), (iii), and 430(c) of this title and sections 3121(a), 3122, 3125(a)–(c), 6413(c)(1), (2)(A), and 6654(d)(2)(B)(ii) of Title 26], except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply with respect to calendar years after 1973."

Section 203(e) of Pub. L. 93–66 provided that: "The amendments made by this section [to sections 409(a)(8), 411(b)(1)(H), 415(a)(2)(ii), (iii) and 430 (c) of this title and sections 3121(a), 3122, 3125(a)–(c), 6413(c)(1), (2)(A), and 6654 (d)(2)(B)(ii) of Title 26] except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply with respect to calendar years after 1973."

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 203(c) of Pub. L. 92–336 provided that: "The amendments made by subsections (a)(1) [amending subsec. (a)(6)–(9) of this section] and (a)(3)(A) [amending section 413(a)(2)(ii) of this title], and the amendments made by subsection (b) [amending sections 3121(a)(1), 3122, 3125, 6413(c)(1), and 6413(c)(2)(A) of Title 26] (except paragraphs (1) and (7) thereof), shall apply only with respect to remuneration paid after December 1972. The amendments made by subsections (a)(2) [section 411(b)(1)(F)–(I) of this title], (a)(3)(B) [section 413(a)(2)(iii) of this title], (b)(1) [section 1402(b)(1)(F)–(I) of Title 26], and (b)(7) [section 6654(d)(2)(B)(ii) of Title 26] shall apply only with respect to taxable years beginning after 1972. The amendment made by subsection (a)(4) [section 415(e)(1) of this title] shall apply only with respect to calendar years after 1972."

Amendment of subsec. (i) of this section by section 104(g) of Pub. L. 92–603 applicable only with respect to payments after 1974, see section 104(j) of Pub. L. 92–603, set out as a note under section 414 of this title.

Section 122(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (n) of this section and section 3121(a)(14) of Title 26 shall apply in the case of any payment made after December 1972."

Section 138(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (o) of this section and section 3121(a)(15) of Title 26] shall apply in the case of any payment made after December 1972."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 203(c) of Pub. L. 92–5 provided that: "The amendments made by subsections (a)(1) [amending this section] and (a)(3)(A) [amending section 413(a)(2)(ii) of this title], and the amendments made by subsection (b) (except paragraphs (1) and (7) thereof) [amending sections 3121, 3122, 3125 and 6413 of title 26], shall apply only with respect to remuneration paid after December 1971. The amendments made by subsections (a)(2), (a)(3)(B), (b)(1), and (b)(7) [amending sections 411 and 413(a)(2)(iii) of this title and sections 1402 and 6654 of title 26] shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (a)(4) [amending section 415 of this title] shall apply only with respect to calendar years after 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 417, 418, 424a, 430, 607 of this title; title 5 section 5901; title 22 sections 288, 288e, 288f; title 29 section 206; title 45 sections 231, 231b, 231e.

§ 410. Definitions relating to employment.

For the purposes of this subchapter—

(a) Employment.

• • • • •

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

• • • • •

(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this subchapter—

• • • • •

(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate;

(D) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

• • • • •

(iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis, or

(E) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (C) shall apply;

(8)(A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of Title 26 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

• • • • •

(10)(A) • • •

• • • • •

(B) Service performed in the employ of—

(i) a school, college, or university, or

(ii) an organization described in section 509(a)(3) of Title 26 if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political

subdivision thereof and the services in its employ performed by a student referred to in section 418(c)(5) of this title are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 418 of this title;

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

• • • • •

(*l*) Service in uniformed services.

• • • • •

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 231b(i) of Title 45. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare with respect to all such service which is so creditable.

• • • • •

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, §§ 123(a)(1), 128(a), 129(a)(1), 86 Stat. 1354, 1358, 1359; Oct. 16, 1974, Pub. L. 93–445, title III, § 311, 88 Stat. 1359.)

REFERENCES IN TEXT

The Universal Military Training and Service Act, referred to in subsec. (m)(5)(B), was redesignated the Military Selective Service Act of 1967 by Pub. L. 90–40, June 30, 1967, 81 Stat. 100, and is classified to section 451 et seq. of Appendix to Title 50, War and National Defense.

AMENDMENTS

1974—Subsec. (*l*)(4)(A). Pub. L. 93–445 substituted "section 231b(i) of Title 45" for "section 228c–1 of Title 45" and struck out ", as provided in section 228c–1(p)(2) of Title 45,' following "notify the Secretary of Health, Education, and Welfare".

1972—Subsec. (a)(7). Pub. L. 92–603, § 128(a), added subpar. (E).

Subsec. (a)(8)(A). Pub. L. 92–603, § 123(a)(1), inserted provisions referring to the election of coverage under section 3121(r) of Title 26.

Subsec. (a)(10)(B). Pub. L. 92–603, § 129(a)(1), designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 128(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (a)(7)(E) of this section and section 3121(b)(7)(D) of Title 26] shall apply with respect to service performed on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act [Oct. 30, 1972]."

Section 129(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending subsec. (a)(10)(B) of this section and section 3121(b)(10)(B) of Title 26] shall apply to services performed after December 31, 1972."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 104(1) of act Aug. 1, 1956, ch. 836, as amended by Pub. L. 92–603, title I, § 125(b), Oct. 30, 1972, 86 Stat. 1357, provided that:

• • • • •

"(2)(A) • • •

• • • • •

"(i) [Repealed]

• • • • •

"(B) [Repealed]

• • • • •

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

COVERAGE OF FEDERAL HOME LOAN BANK EMPLOYEES

Section 125(a) of Pub. L. 92–603 provided that:

"The provisions of section 210(a)(6)(B)(ii) of the Social Security Act [subsec. (a)(6)(B)(ii) of this section] and section 3121(b)(6)(B)(ii) of the Internal Revenue Code of 1954 [section 3121(b)(6)(B)(ii) of Title 26], insofar as they relate to service performed in the employ of a Federal home loan bank, shall be effective—

"(1) with respect to all service performed in the employ of a Federal home loan bank on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act [Oct. 30, 1972]; and

"(2) in the case of individuals who are in the employ of a Federal home loan bank on such first day, with respect to any service performed in the employ of a Federal home loan bank after the last day of the sixth calendar year preceding the year in which this Act is enacted [1972]; but this paragraph shall be effective only if an amount equal to the taxes imposed by sections 3101 and 3111 of such Code [sections 3101 and 3111 of Title 26] with respect to the services of all such individuals performed in the employ of Federal home loan banks after the last day of the sixth calendar year preceding the year in which this Act is enacted [1972] are paid under the provisions of section 3122 of such Code [section 3122 of Title 26] by July 1, 1973, or by such later date as may be provided in an agreement entered into before such date with the Secretary of the Treasury or his delegate for purposes of this paragraph."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 404, 405, 409, 411, 415, 416, 417, 418, 426a, 428, 429, 1395x of this title; title 10 section 1451; title 20 section 125; title 26 section 3121; title 33 section 857; title 45 section 231q.

§ 411. Definitions relating to self-employment.

For the purposes of this subchapter—

(a) Net earnings from self-employment.

The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of Title 26, Internal Revenue Code of 1939, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of Title 26, Internal Revenue Code of 1939, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop

shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

• • • • •

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) of this section without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of Title 26, Internal Revenue Code of 1954;

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within the possessions of the United States) and 932 (relating to citizens of possessions of the United States) of Title 26, Internal Revenue Code of 1954, shall be deemed not to include the Virgin Islands, Guam, or American Samoa;

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

• • • • •

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A); and

(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of Title 26 shall not apply.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 410(f) of this title—

• • • • •

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraph (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g) of this section, or by a partnership of which an individual is a member on a regular basis as defined in subsection (g) of this section, but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed $1,600.

• • • • •

(b) Self-employment income.

The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

• • • • •

(E) For any taxable year ending after 1967 and beginning prior to 1972, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(F) For any taxable year beginning after 1971 and prior to 1973, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) For any taxable year beginning after 1972 and prior to 1974, (i) $10,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(H) For any taxable year beginning after 1973 and prior to 1975, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(I) For any taxable year beginning in any calendar year after 1974, (i) an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for such calendar year, minus (ii) the amount of the wages paid to such individual during such taxable year; or

• • • • •

(g) Regular basis.

An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net eanings from self-employment, as defined in the first sentence of subsection (a) of this section, of not less than $400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership. (As amended Mar. 17, 1971, Pub. L. 92–5, title II, § 203(a)(2), 85 Stat. 10; July 1, 1972, Pub. L. 92–336, title II, § 203(a)(2), 86 Stat. 418; Oct. 30, 1972, Pub. L. 92–603, title I, §§ 121(a), 124(a), 140(a), 86 Stat. 1353, 1357, 1366; July 9, 1973, Pub. L. 93–66, title II, § 203(a)(2), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, § 5(a)(2), 87 Stat. 953; Aug. 7, 1974, Pub. L. 93–368, § 10(a), 88 Stat. 422.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–368 inserted "(as determined without regard to any activities of an agent of such owner or tenant)" after "material participation by the owner or tenant" wherever appearing.

1973—Subsec. (b)(1)(H). Pub. L. 93–233 substituted "$13,200" for "$12,600".

Pub. L. 93–66 substituted "$12,600" for "$12,000".

1972—Subsec. (a). Pub. L. 92–603, §§ 121(a)(1), 124(a), 140(a), struck out provisions of par. (7) relating to citizens of the United States performing the specified services as an employee of an American employer (as defined in section 410(e) of this title) or as a minister in a foreign country who has a congregation composed predominantly of United States citizens, and added provisions in par. (7) relating to the applicability of sections 911 and 931 of Title 26 and added par. (10) and provisions for an optional method for determining self-employment earnings.

Subsec. (b)(1)(F). Pub. L. 92–336, § 203(a)(2)(A), added "and prior to 1973" after "1971".

Subsec. (b)(1)(G)–(I). Pub. L. 92–336, § 203(a)(2)(B), added subsec. (b)(1)(G)–(I).

Subsec. (g). Pub. L. 92–603, § 121(a)(2), added subsec. (g).

1971—Subsec. (b)(1)(E). Pub. L. 92–5, § 203(a)(2)(A), added "and beginning prior to 1972" after "1967".

Subsec. (b)(1)(F). Pub. L. 92–5, § 203(a)(2)(B), added subsec. (b)(1)(F).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10(c) of Pub. L. 93–368 provided that: "The amendments made by this section [to subsec. (a)(1) of this section and section 1402(a)(1) of Title 26] shall apply with respect to taxable years beginning after December 31, 1973."

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 121(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (g) of this section and amending subsecs. (a) of this section and section 1402 of Title 26] shall apply only with respect to taxable years beginning after December 31, 1972."

Section 140(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (a)(7) of this section and section 1402(a)(8) of Title 26] shall apply with respect to taxable years beginning after December 31, 1972."

Section 124(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (a)(10) of this section and section 1402(a)(11) of Title 26] shall apply with respect to taxable years beginning after December 31, 1972."

Amendment by Pub. L. 92–336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 413, 424a, 430, 1382a of this title; title 45 sections 231b, 231e.

§ 413. Quarter and quarter of coverage.

(a) Definitions.

For the purposes of this subchapter—

• • • • •

(2) The term "quarter of coverage" means a quarter in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income, except that—

• • • • •

(ii) if the wages paid to any individual in any calendar year equal $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year

after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971 and before 1973, or $10,800 in the case of a calendar year after 1972 and before 1974, or $13,200 in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967 and beginning before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

• • • • •

(As amended Mar. 17, 1971, Pub. L. 92–5, title II, § 203(a)(3), 85 Stat. 10; July 1, 1972, Pub. L. 92–336, title II, § 203(a)(3), 86 Stat. 418; July 9, 1973, Pub. L. 93–66, title II, § 203(a)(3), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, § 5(a)(3), 87 Stat. 953.)

AMENDMENTS

1973—Subsec. (a)(2)(ii), (iii). Pub. L. 93–233 substituted "$13,200" for "$12,600".

Pub. L. 93–66 substituted "$12,600" for "$12,000", in clauses (ii) and (iii).

1972—Subsec. (a)(2)(ii). Pub. L. 92–336, § 203(a)(3)(A), added provisions for determining a quarter of coverage based on amounts earned as wages after 1971 and before 1975, and amounts equal to the contribution and benefit base in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective.

Subsec. (a)(2)(iii). Pub. L. 92–336, § 203(a)(3)(B), added provisions for determining a quarter of coverage based on amounts earned as wages after 1971 and before 1975, and amounts equal to the contribution and benefit base which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974.

1971—Subsec. (a)(2)(ii). Pub. L. 92–5, § 203(a)(3)(A), substituted "after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971" for "after 1967".

Subsec. (a)(2)(iii). Pub. L. 92–5, § 203(a)(3)(B), substituted "after 1967 and beginning before 1972, or $9,000 in the case of a taxable year beginning after 1971" for "after 1967".

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment of subsec. (a)(2)(ii) of this section by section 203(a)(3)(A) of Pub. L. 92–336 applicable only with respect to remuneration paid after December 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of this title.

Amendment of subsec. (a)(2)(iii) of this section by section 203(a)(3)(B) of Pub. L. 92–336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsec. (a)(2)(ii) of this section by section (a)(3)(A) of Pub. L. 92–5 applicable only with respect to remuneration paid after December 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of this title.

Amendment of subsec. (a)(2)(iii) of this section by section (a)(3)(B) of Pub. L. 92–5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 430, 607 of this title.

§ 414. Insured status for purposes of old-age and survivors insurance benefits.

For the purposes of this subchapter—

(a) Fully insured individual.

The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died or (if earlier) the year in which he attained age 62, except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 416(i) of this title).

• • • • •

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 104(a), 86 Stat. 1340.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–603 struck out provisions setting a separate age computation point for women and reduced from age 65 to age 62 the age computation point for men.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 104(j) of Pub. L. 92–603 provided that:

"(1) The amendments made by this section [amending subsec. (a)(1) of this section, sections 415(b)(3),

416(1)(3)(A), 423 (a)(2), (c)(1)(A), and 427 (a), (b), of this title and provisions set out as a note under section 415 of this title] (except the amendment made by subsection (1), and the amendment made by subsection (g) to section 209(1) of the Social Security Act) shall apply only in the case of a man who attains (or would attain) age 62 after December 1974. The amendment made by subsection (1), and the amendment made by subsection (g) to section 209(1) of the Social Security Act [amending section 409(1) of this title and section 3121(a)(9) of Title 26], shall apply only with respect to payments after 1974.

"(2) In the case of a man who attains age 62 prior to 1975, the number of his elapsed years for purposes of section 215(b)(3) of the Social Security Act [section 415 (b)(3) of this title] shall be equal to (A) the number determined under such section as in effect on September 1, 1972, or (B) if less, the number determined as though he attained age 65 in 1975, except that monthly benefits under title II of the Social Security Act [this subchapter] for months prior to January 1973 payable on the basis of his wages and self-employment income shall be determined as though this section had not been enacted.

"(3)(A) In the case of a man who attains or will attain age 62 in 1973, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '64'."

"(B) In the case of a man who attains or will attain age 62 in 1974, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '63'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 413, 416, 423, 426, 427 of this title; title 38 section 412; title 45 section 231.

§ 415. Computation of primary insurance amount.

For the purposes of this subchapter—

(a) Primary insurance amount.

The primary insurance amount of an insured individual shall be determined as follows:

(1) Subject to the conditions specified in subsections (b), (c), and (d) of this section and except as provided in paragraphs (2) and (3) of this subsection, such primary insurance amount shall be whichever of the following amounts is the largest:

(A) the amount in column IV of the following table (or, if larger, the amount in Column IV of the latest table deemed to be such table under subsection (i)(2)(D) of this section) on the line on which in column III of such table appears his average monthly wage (as determined under subsection (b) of this section);

(B) the amount in column IV of such table on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of this section); or

(C) the amount in column IV of such table on the line on which in column I appears his primary insurance benefit (as determined under subsection (d) of this section).

(2) In the case of an individual who was entitled to disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, such primary insurance amount shall be—

(A) the amount in column IV of such table which is equal to the primary insurance amount upon which such disability insurance benefit is based; except that if such individual was entitled to a disability insurance benefit under section 423 of this title for the month before the effective month of a new table (whether enacted by another law or deemed to be such table under subsection (i)(2)(D) of this section) and in the following month became entitled to an old-age insurance benefit, or he died in such following month, then his primary insurance amount for such following month shall be the amount in column IV of the new table on the line on which in column II of such table appears his primary insurance amount for the month before the effective month of the table (as determined under subsection (c) of this section) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based. For purposes of this paragraph, the term "primary insurance amount" with respect to any individual means only a primary insurance amount determined under paragraph (1) (and such individual's benefits shall be deemed to be based upon the primary insurance amount as so determined); or

(B) an amount equal to the primary insurance amount upon which such disability insurance benefit is based if such primary insurance amount was determined under paragraph (3).

(3) Such primary insurance amount shall be an amount equal to $9.00 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under paragraph (1) or (2).

For purposes of paragraph (3), an individual's "years of coverage" is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this subchapter and wages deemed to be paid prior to 1951 to such individual under section 431 of this title) for years after 1936 and before 1951 by $900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(C) of this section) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this subchapter, and wages deemed to be paid to such individual under section 429 of this title) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e) of this section, may be counted for such year.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 403(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$16.20	$84.50	----------	$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	96.30	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.00	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	106.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.28	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.09	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.30	102	102	122.50	183.80
24.61	25.00	112.10	103	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	120.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	208.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	128.80	133	136	143.00	214.50
29.69	30.36	130.50	137	141	144.90	217.40
30.37	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.30	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	135.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	184	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	194	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.60	222	225	181.60	272.40
41.77	42.44	165.50	226	230	183.80	275.70
42.45	43.20	167.30	231	235	185.80	278.70
43.21	43.76	169.40	236	239	188.10	282.20
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	292.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 403(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$235.40	$404	$407	$261.30	$477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.60
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20
		247.40	437	440	274.70	513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	301.10	552.20
		272.90	507	510	303.00	554.60
		274.60	511	515	304.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.90
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.60	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		343.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		353.30	741	745	392.20	686.40
		354.50	746	750	393.50	688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 403(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$358.50	$766	$770	$398.00	$696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	403.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.50	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	424.60	743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.50	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	980	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.80	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80

(b) Average monthly wage.

* * * * *

(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died, or if it occurred earlier but after 1960, the year in which he attained age 62. For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

(4) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who becomes entitled to benefits under section 402(a) or section 423 of this title in or after the month in which a new table that appears in (or is deemed by subsection (i)(2)(D) of this section to appear in) subsection (a) of this section becomes effective; or

(B) who dies in or after the month in which such table becomes effective without being entitled to benefits under section 402(a) or section 423 of this title; or

(C) whose primary insurance amount is required to be recomputed under subsection (f)(2) of this section.

* * * * *

(c) Primary insurance amount under prior provisions.

(1) For the purposes of column II of the latest table that appears in (or is deemed to appear in) subsection (a) of this section an individual's primary inurance amount shall be computed on the basis of the law in effect prior to the month in which the latest such table became effective.

(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 402(a) or section 423 of this title, or who died, before such effective month.

(d) Primary insurance benefit under 1939 Act.

(1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

* * * * *

(C) For the purposes of subparagraph (B), "total wages prior to 1951" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 417 of this title, (iii) compensation under the Railroad Retirement Act of 1937 prior to 1951 creditable to him pursuant to this subchapter, and (iv) wages deemed paid prior to 1951 to such individual under section 431 of this title.

* * * * *

(2) The provisions of this subsection shall be applicable only in the case of an individual—

* * * * *

(C)(i) * * *

* * * * *

(iii) whose primary insurance amount is required to be recomputed under subsection (f)(2) or (6) of this section or section 431 of this title.

* * * * *

(e) Certain wages and self-employment income not to be counted.

For the purposes of subsections (b) and (d) of this section—

(1) in computing an individual's average monthly wage there shall not be counted the excess over $3,600 in the case of any calendar year after 1950 and before 1955, the excess over $4,200 in the case of any calendar year after 1954 and before 1959, the excess over $4,800 in the case of any calendar year after 1958 and before 1966, the excess over $6,600 in the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in the case of any calendar year after 1967 and before 1972, the excess over $9,000 in the case of any calendar year after 1971 and before 1973, the excess over $10,800 in the case of any calendar year after 1972 and before 1974, the excess over $13,200 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title);

* * * * *

(f) Recomputation of benefits.

* * * * *

(2) If an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute such individual's primary insurance amount with respect to each such year. Such recomputation shall be made as provided in subsections (a)(1)(A) and (C) and (a)(3) of this section as though the year with respect to which such recomputation is made is the last year of the period specified in subsection (b)(2)(C) of this section. A recomputation under this paragraph with respect to any year shall be effective—

* * * * *

(B) in the case of an individual who died in such year, for monthly benefits beginning with benefits for the month in which he died.

* * * * *

(6) Upon the death after 1967 of an individual entitled to benefits under section 402(a) or section 423 of this title, if any person is entitled to monthly benefits or a lump-sum death payment, on the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if the decedent during his lifetime was paid compensation which was treated under section 405(*o*) of this title as remuneration for employment.

(7) Repealed. Pub. L. 89–97, title III, § 302(d)(2), July 30, 1965, 79 Stat. 365.)

(g) Rounding of benefits.

The amount of any primary insurance amount and the amount of any monthly benefit computed under section 402 or 423 of this title which (after reduction under section 403(a) of this title and deductions under section 403(b) of this title) is not a multiple of $0.10 shall be raised to the next higher multiple of $0.10.

* * * * *

(i) Cost-of-living increases in benefits.

(1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on March 31 in each year after 1974, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this subchapter;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subparagraph (A)(i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this subchapter; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2)(A)(i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B)) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of such year as provided in subparagraph (B), increase the benefit amount of each individual who for such month is entitled to benefits under section 427 or 428 of this title, and the primary insurance amount of each other individual under this subchapter (but not including a primary insurance amount determined under subsection (a)(3) of this section), by an amount derived by multiplying each such amount (including each such individual's primary insurance amount or benefit amount under section 427 or 428 of this title as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for such cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this subchapter for months after May of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after May of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 430 of this title and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (along with the increased benefit amounts which shall be deemed to be the amounts appearing in sections 427 and 428 of this title) a revision of the table of benefits contained in subsection (a) of this section (as it may have been most recently revised by another law or pursuant to this paragraph); and such revised table shall be deemed to be the table appearing in such subsection (a). Such revision shall be determined as follows:

(i) The headings of the table shall be the same as the headings in the table immediately prior to its revision, except that the parenthetical phrase at the beginning of column II shall reflect the year in which the primary insurance amounts set forth in column IV of the table immediately prior to its revision were effective.

(ii) The amounts on each line of column I and column III, except as otherwise provided by clause (v) of this subparagraph, shall be the same as the amounts appearing in each such column in the table immediately prior to its revision.

(iii) The amount on each line of column II shall be changed to the amount shown on the corre-

sponding line of column IV of the table immediately prior to its revison.

(iv) The amounts on each line of column IV and column V shall be increased from the amounts shown in the table immediately prior to its revision by increasing each such amount by the percentage specified in subparagraph (A)(ii) of this paragraph. The amount on each line of column V shall be increased, if necessary, so that such amount is at least equal to one and one-half times the amount shown on the corresponding line in column IV. Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(v) If the contribution and benefit base (determined under section 430 of this title) for the calendar year in which the table of benefits is revised is lower than such base for the following calendar year, columns III, IV, and V of such table shall be extended. The amounts on each additional line of column III shall be the amounts on the preceding line increased by $5 until in the last such line of column III the second figure is equal to one-twelfth of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised. The amount on each additional line of column IV shall be the amount on the preceding line increased by $1.00, until the amount on the last line of such column is equal to the last line of such column as determined under clause (iv) plus 20 percent of one-twelfth of the excess of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised (as determined under section 430 of this title) over such base for the calendar year in which the table of benefits is revised. The amount in each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(3) As used in this subsection, the term "general benefit increase under this subchapter" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this subchapter are based. (As amended Mar. 17, 1971, Pub. L. 92–5, title II, §§ 201 (a), (c), (d), 203(a)(4), 85 Stat. 6, 9, 10; July 1, 1972, Pub. L. 92–336, title II, §§ 201 (a), (c)–(f), 202(a) (1), (3), 203(a)(4), 86 Stat. 406, 410–412, 416, 418; Oct. 30, 1972, Pub. L. 92–603, title I, §§ 101(a), (c)–(e), 104(b), 134, 142(b), (c), 144(a)(1), 86 Stat. 1333, 1334, 1340, 1362, 1368; 1369; July 9, 1973, Pub. L. 93–66, title II, § 203(a)(4), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, §§ 1(h)(1), 2(a), (d), 3(a)–(h), 5(a)(4), 87 Stat. 948, 952, 953.)

REFERENCE IN TEXT

The Railroad Retirement Act of 1937, referred to in the text, is act Aug. 29, 1935, ch. 812, 49 Stat. 967, as amended, which was amended in its entirety and completely revised by Pub. L. 93–445, Oct. 16, 1974, 88 Stat. 1305, eff. Jan. 1. 1975. The Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974 and is set out as section 231 et seq. of Title 45, Railroads. For transitional provisions leading to coverage of the Railroad Retirement Act of 1974, see sections 201 to 210 of Pub. L. 93–445, set out as notes under section 231 of Title 45.

CODIFICATION

Subsec. (f)(6) as it appears in the main volume was redesignated subsec. (f)(4) by Pub. L. 89–97, § 302(d)(2).

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–233, § 2(a), in revising the benefits table: in column II, substituted "Primary insurance amount effective for September 1972" for "Primary insurance amount under 1971 Act" and increased benefit amounts to $84.50–$404.50 from $70.40–$295.40; in column III, increased benefit amounts to $76 to $1,096–$1,100 from $76 to $996–$1,000; in column IV, increased benefit amounts to $93.80–$469.00 from $84.50–$404.50; and in column V, increased benefit amounts to $140.80–$820.80 from $126.80–$707.90.

Subsec. (a)(3). Pub. L. 93–233, § 1(h)(1), substituted "$9.00" for "$8.50".

Subsec. (e)(1). Pub. L. 93–233, § 5(a)(4), substituted "$13,200" for "$12,600".

Pub. L. 93–66 substituted "$12,600" for "$12,000".

Subsec. (l)(1)(A)(i). Pub. L. 93–233, § 3(a), substituted "calendar quarter ending on March 31 in each year after 1974" for calendar quarter ending on June 30 in each year after 1972".

Subsec. (l)(1)(B)(ii). Pub. L. 93–233, § 3(b), substituted in the exception provision "if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective" for "in which a law has been enacted providing a general benefit increase under this subchapter or in which such a benefit increase becomes effective".

Subsec. (l)(2)(A)(i). Pub. L. 93–233, § 3(c), substituted "1975" for "1974" and struck out "and to subparagraph (E) of this paragraph" following "paragraph (1)(B)" in the parenthetical text.

Subsec. (l)(2)(A)(ii). Pub. L. 93–233, § 3(d)(1)–(3), substituted "the base quarter in any year" and "June of such year" for "such base quarter" and "January of the next calendar year" and struck out "(subject to subparagraph (E))" preceding "as provided in subparagraph (B)", respectively.

Subsec. (l)(2)(B). Pub. L. 93–233, § 3(e), substituted "May" for "December" in two instances and struck out "(subject to subparagraph (E))" following "shall apply".

Subsec. (l)(2)(C)(ii). Pub. L. 93–233,§ 3(f), substituted "within 30 days after the close of such quarter" for "on or before August 15 of such calendar year".

Subsec. (l)(2)(D). Pub. L. 93–233, § 3(g), substituted "within 45 days after the close of such quarter" for "on or before November 1 of such calendar year".

Subsec. (l)(2)(E). Pub. L. 93–233, § 3(h), struck out subpar. (E) providing that "Notwithstanding a determination by the Secretary under subparagraph (A) that a base quarter in any calendar year is a cost-of-living computation quarter (and notwithstanding any notification or publication thereof under subparagraph (C) or (D)), no increase in benefits shall take effect pursuant thereto, and such quarter shall be deemed not to be a cost-of-living computation quarter, if during the calendar year in which such determination is made a law providing a general benefit increase under this subchapter is enacted or becomes effective."

1972—Subsec. (a). Pub. L. 92–336, § 202(a)(3)(A), added "(or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (l)(2)(D))" following "the following table" in par. (1)(A), and "(whether enacted by another law or deemed to be such table under subsection (l)(2)(D))" following "effective month of a new table" in par. (2).

Pub. L. 92–336, § 201(a), revised the benefits table by substituting "Primary insurance amount under 1971 Act" for "Primary insurance amount under 1969 Act" and $70.40–$295.40 for $64.00 or less— $250.70 in column II, adding $751–$996 under minimum average monthly wage subcolumn of column III, adding $755–$1000 under maximum average monthly wage subcolumn of column III, substituting $84.50–$404.50 for $70.40–$295.40 in column IV, and $126.80–$707.90 for $105.60–$517.00 in column V.

Pub. L. 92–336, § 201(c), added "The primary insurance amount of an insured individual shall be determined as

follows:" following "(a)", redesignated introductory material and pars. (1) to (3) as par. (1) and subpars. (A) to (C) respectively, and as so redesignated, in par. (1) added provision relating to exception in par. (2) and in subpars. (A) to (C) made changes in phraseology, and redesignated par. (4) as par. (2) and as so redesignated, added provisions relating to determination of primary insurance amount where individual was entitled to disability insurance benefits under section 423 of this title.

Subsec. (a)(1). Pub. L. 92–603, § 101(a)(1), inserted reference to paragraph (3) in the provisions preceding subpar. (A).

Subsec. (a)(2). Pub. L. 92–603, § 101(c), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated inserted "(whether enacted by another law or deemed to be such table under subsection (l)(2)(D) of this section)".

Subsec. (a)(3). Pub. L. 92–603, § 101(a)(2), added subsec. (a)(3) and provisions following such subsec. (a)(3) covering the individual's "years of coverage" for purposes of subsec. (a)(3).

Pub. L. 92–603, § 144(a)(1), substituted in column II "254.40" for "251.40" and in column III "696" for "699".

Subsec. (b)(3). Pub. L. 92–603, § 104(b), struck out provisions setting a separate age computation point for women and reduced from age 65 to age 62 the age computation point for men.

Subsec. (b)(4). Pub. L. 92–336, § 202(a)(3)(B), substituted provisions relating to an individual who becomes entitled to benefits in or after the month in which a new table that appears in (or is deemed by subsec. (l)(2)(D) to appear in) subsec. (a) becomes effective for provisions relating to an individual who becomes entitled to benefits after August 1972 in subpar. (A), substituted provisions relating to an individual who dies in or after the month in which such table becomes effective for provisions relating to an individual who dies after August 1972 in subpar. (B), and added subpar. (C).

Pub. L. 92–336, § 201(d), substituted "August 1972" for "December 1970" in two places.

Subsec. (c). Pub. L. 92–336, § 202(a)(3)(C), substituted provisions relating to the computation of an individual's primary insurance amount based on the law in effect prior to the month in which the latest table appearing in (or is deemed to be appearing in) subsec. (a) of this section becomes effective, for provisions relating to the computation of an individual's primary insurance amount based on the law in effect prior to September 1972 in subpar. (1), and substituted ", or who died, before such effective month" for "before September 1972, or who died before such month" in subpar. (2).

Pub. L. 92–336, § 201(e), substituted "September 1972" for "March 17, 1971" in two places, and "month" for "date".

Subsec. (d)(1)(C)(iv). Pub. L. 92–603, § 142(b), added subsec. (d)(1)(C)(iv).

Subsec. (d)(2). Pub. L. 92–603, §§ 134(b), 142(c), added references to subsec. (f)(6) of this section and section 431 of this title.

Subsec. (e)(1). Pub. L. 92–336, § 203(a)(4), added provisions eliminating from the computation of an individual's average monthly wage excess amounts in calendar years after 1971 and before 1975, and excess over amounts equal to the contribution and benefit base in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective.

Subsec. (f)(2). Pub. L. 92–603, §§ 101(d), 134(a)(1), inserted reference to subsec. (a)(3) of this section in the provisions preceding subpar. (A) and in subpar. (B) struck out provision relating to any individual whose increase in his primary insurance amount is attributable to compensation which, upon his death, is treated as remuneration for employment under section 405 (o) of this title.

Pub. L. 92–336, § 201(f), substituted "subsection (a)(1)(A) and (C) of this section" for "subsection (a)(1) and (3) of this section".

Subsec. (f)(6). Pub. L. 92–603, § 134(a)(2), added par. (6).

Subsec. (l). Pub. L. 92–336, § 202(a)(1), added subsec. (l).

Subsec. (l)(2)(A)(ii). Pub. L. 92–603, § 101(e), inserted "(but not including a primary insurance amount determined under subsection (a)(3) of this section)" after "under this subchapter".

1971—Subsec. (a). Pub. L. 92–5, § 201(a), revised the benefits table by: substituting "Primary insurance amount under 1969 Act" for "Primary insurance amount under 1967 Act" and $64.00 or less—$250.70 for $55.40 or less—$218.00 in column II, adding $653–$746 under minimum average monthly wage subcolumn of column III, striking out $650 and adding $652–$750 under maximum average monthly wage subcolumn of column III, substituting $70.40–$295.40 for $64.00–$250.70 in column IV, and $105.60–$517.00 for $96.00–$434.40 in column V.

Subsec. (b)(4). Pub. L. 92–5, § 201(c), substituted "December 1970" for "December 1969" in two places.

Subsec. (c). Pub. L. 92–5, § 201(d), substituted "prior to March 17, 1971" for "prior to December 30, 1969" in subpar. 1, and substituted "before March 17, 1971, or who died before such date" for "before January 1970, or who died before such month" in subpar. 2.

Subsec. (e)(1). Pub. L. 92–5, § 203(a)(4), substituted "the excess over $7,800 in the case of any calendar year after 1967 and before 1972, and the excess over $9,000 in the case of any calendar year after 1971" for "and the excess over $7,800 in the case of any calendar year after 1967".

EFFECTIVE DATE OF 1973 AMENDMENTS

Section 1(h)(2) of Pub. L. 93–233 provided that: "The amendment made by paragraph (1) [to subsec. (a)(3) of this section] shall be effective with respect to benefits payable for months after February 1974."

Section 2(c) of Pub. L. 93–233 provided that: "The amendment made by subsections (a) and (b) [revising subsec. (a) benefits table of this section, amending sections 427(a), (b) and 428(b)(1)(2), (c)(3)(A), (B) of this title, and repealing section 202(a)(4) of Pub. L. 92–336, title II, July 1, 1972, 86 Stat. 416] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act [section 402(i) of this title] in the case of deaths occurring after such month."

Amendment by section 5(a)(4) of Pub. L. 93–233 applicable with respect to calendar years after 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment Pub. L. 93–66 applicable with respect to calendar years after 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 101(g) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsecs. (a), (f), and (l) of this section and section 403(a) of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after December 1972 (without regard to when the insured individual became entitled to such benefits or when he died) and with respect to lump-sum death payments under such title [subchapter] in the case of deaths occurring after such month."

Amendment of subsec. (b)(3) of this section by section 104(b) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with provision for the determination of the number of elapsed years for purposes of subsec. (b)(3) of this section in the case of a man who attains age 62 prior to 1975, see section 104(j) of Pub. L. 92–603, set out as a note under section 414 of this title.

Amendment by section 144(a)(1) of Pub. L. 92–603 effective in like manner as if such amendment had been included in Title II of Pub. L. 92–336, see section 144(b) of Pub. L. 92–603, set out as a note under section 403 of this title.

Section 202(a)(3)(A)–(C) of Pub. L. 92–336, as amended by Pub. L. 93–233, § 2(d), Dec. 31, 1973, 87 Stat. 952, provided in part that amendment of subsecs. (a)(1)(A), (2), (b)(4), and (c) of this section by section 202(a)(3)(A)(i), (ii), (B), (C) of Pub. L. 92–336 shall be effective June 1, 1974.

Section 201(i) of Pub. L. 92–336 provided that: "The amendments made by this section [amending subsecs (a), (b)(4), (c), and (f)(2) of this section and section 403(a)(2) of this title] (other than the amendment

made by subsections (g) and (h)) shall apply with respect to monthly benefits under title II of the Social Security Act [this chapter] for months after August 1972 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. The amendments made by subsection (g) [amending sections 427 and 428 of this title] shall apply with respect to monthly benefits under title II of such Act for months after August 1972. The amendments made by subsection (h)(1) [amending section 403(a)(4) of this title] shall apply with respect to monthly benefits under title II of such Act for months after December 1971."

Amendment of subsec. (e)(1) of this section by section 203(a)(4) of Pub. L. 92-336 applicable only with respect to calendar years after 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 201(e) of Pub. L. 92-5 provided that: "The amendments made by this section [amending subsecs. (a), (b)(4), and (c) of this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after December 1970 and with respect to lump-sum death payments under such title in the case of deaths occurring in and after the month in which this Act is enacted [March 1971]."

Amendment of subsec. (e)(1) of this section by Pub. L. 92-5 applicable only with respect to calendar years after 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of this title.

COST-OF-LIVING INCREASE IN BENEFITS

Section 3(1) of Pub. L. 93-233 provided that: "For purposes of section 203(f)(8) [section 403(f)(8) of this title], so much of section 215(i)(1)(B) [subsec. (i)(1)(B) of this section] as follows the semicolon, and section 230(a) of the Social Security Act [section 430(a) of this title], the increase in benefits provided by section 2 of this Act [revising benefits table of subsec. (a) of this section and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title] shall be considered an increase under section 215(i) of the Social Security Act [subsec. (i) of this section]."

TABLE MODIFICATION AND EXTENSION; EFFECTIVE DATE; PUBLICATION IN FEDERAL REGISTER

Section 203(f) of Pub. L. 93-66 provided that: "Effective June 1, 1974, the Secretary of Health, Education, and Welfare, shall prescribe and publish in the Federal Register such modifications and extensions in the table contained in section 215(a) of the Social Security Act [subsec. (a) of this section] (which shall be determined in the same manner as the revisions in such table provided for under section 215(i)(2)(D) of such Act [subsec. (i)(2)(D) of this section]) as may be necessary to reflect the amendments [to sections 409(a)(8), 411(b)(1)(H), 413(a)(2)(ii), (iii), 415(e)(1), and 430(c) of this title and sections 1402(h)(1)(H), 3121(a)(1), 3122, 3125, 6413(c)(1), (2)(A), and 6654(d)(2)(B)(ii) of Title 26] made by this section; and such modified and extended table shall be deemed to be the table appearing in such section 215(a) [subsec. (a) of this section]."

DISREGARDING OF RETROACTIVE PAYMENT OF OASDI BENEFIT INCREASE AND OF RAILROAD RETIREMENT BENEFIT INCREASE

Section 201(g) of Pub. L. 92-5 provided that: "Notwithstanding the provisions of sections 2(a)(10), 402(a)(7), 1002(a)(8), 1402(a(8), and 1602(a)(13) and (14) of the Social Security Act [sections 302(a)(10), 602(a)(7), 1202(a)(8), 1352(a)(8), and 1382(a)(13) and (14) of this title] each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of such Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter], may disregard (and the plan may be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to an individual under title II of such Act [subchapter II of this chapter] (or under the Railroad Retirement Act of 1937 [section 228a et seq. of title 45] by reason of the first proviso in section 3(e) thereof [section 228c(e) of title 45]), in any month after the month in which this Act is enacted [March 1971], to the extent that (1) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January, February, March, or April 1971 resulting from the enactment of this title, and (2) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971."

DISREGARDING OF INCOME OF OASDI RECIPIENTS AND RAILROAD RETIREMENT RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE.

Section 1007 of Pub. L. 92-172, as amended by Pub. L. 91-306, § 2(b)(1), July 6, 1970, 84 Stat. 408; Pub. L. 91-669, Jan. 11, 1971, 84 Stat. 2038; Pub. L. 92-223, § 5, Dec. 28, 1971, 85 Stat. 810; Pub. L. 92-603, title III, § 304, Oct. 30, 1972, 86 Stat. 1484, eff. Oct. 30, 1972, provided that:

"In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid to individuals under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter], there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual found eligible (as a result of the requirement imposed by this section or otherwise) for aid for any month after March 1970 and before January 1974 who also receives in such month—"

* * * * *

CONVERSION OF DISABILITY INSURANCE BENEFITS TO OLD-AGE INSURANCE BENEFITS

Section 201(f) of Pub. L. 92-5 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1970 on the basis of an application filed in or after the month in which this Act is enacted [March 1971], and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1971, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4)] (if applicable), the amount in column IV of the table appearing in such section 215(c) [probably means section 215(a) which is subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

INCREASE OF OLD-AGE OR DISABILITY INSURANCE BENEFITS FOLLOWING INCREASE IN PRIMARY INSURANCE AMOUNT OR ENTITLEMENT TO BENEFITS ON A HIGHER AMOUNT

Section 101(f) of Pub. L. 92-603 provided that: "Whenever an insured individual is entitled to benefits for a month which are based on a primary insurance amount under paragraph (1) or paragraph (3) of section 215(a) of the Social Security Act [subsec. (a)(1) or (3) of this section] and for the following month such primary insurance amount is increased or such individual becomes entitled to benefits on a higher primary insurance amount under a different paragraph of such section 215(a) [subsec. (a) of this section], such individual's old-age or disability insurance benefit (beginning with the effective month of the increased primary insurance amount) shall be increased by an amount equal to the difference between the higher primary insurance amount and the primary insurance amount on which such benefit was based for the month prior to such effective month, after the application of section 202(q) of such Act [section 402(q) of this title] where applicable, to such difference."

COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR CERTAIN INDIVIDUALS WHO WERE FULLY INSURED AND HAD ATTAINED RETIREMENT AGE PRIOR TO 1961

Section 303(g)(1) of Pub. L. 86-778, as amended by Pub. L. 87-64, title I, § 103(d), June 30, 1961, 75 Stat. 138; Pub L. 89-97, title III, § 302(f)(6), July 30, 1965, 79 Stat. 366; Pub. L. 90-248, title I, § 155(c), Jan. 2, 1968, 81 Stat. 866; Pub. L. 92-603, Title I, § 104(h), Oct. 30, 1972, 86 Stat. 1341, provided that: "In the case of any individual who both was fully insured and had attained retirement

age prior to 1961 and (A) who becomes entitled to old-age insurance benefits after 1960, or (B) who dies after 1960 without being entitled to such benefits, then, notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e)(2—4) and (f)(2—4) of this section and section 423(a)(2) of this title], or the amendments made by the Social Security Amendments of 1965, 1967, 1969, and 1972 (and by Public Law 92-5), the Secretary shall also compute such individual's primary insurance amount on the basis of such individual's average monthly wage determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act [subsec. (b)(3)(B) of this section] as then in effect, but only if such closing date would have been applicable to such computation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions of section 215 of the Social Security Act [this section], as amended by the Social Security Amendments of 1960 [Pub. L. 86-778], or (if such individual becomes entitled to old-age insurance benefits after the date of enactment of the Social Security Amendments of 1972, or dies after such date without becoming so entitled) as amended by the Social Security Amendments of 1972, such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section 215 [this section]. The terms used in this subsection shall have the meaning assigned to them by title II of the Social Security Act [this subchapter]; except that the terms 'fully insured' and 'retirement age' shall have the meaning assigned to them by such title II [this subchapter] as in effect on September 13, 1960."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 417, 423, 427, 428, 430, 431, 1382f, 1395r of this title; title 26 section 415; title 45 sections 231b, 231c.

§ 416. Additional definitions.

For the purposes of this subchapter—

* * * * *

(b) Wife.

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed; or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of Title 45.

(c) Widow.

The term "widow" (except when used in section 402(i) of this title) means the surviving wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than nine months immediately prior to the day on which he died, or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of Title 45.

* * * * *

(e) Child.

The term "child" means (1) the child or legally adopted child of an individual, (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) not less than nine months immediately preceding the day on which such individual died, and (3) a person who is the grandchild or stepgrandchild of an individual or his spouse, but only if (A) there was no natural or adoptive parent (other than such a parent who was under a disability, as defined in section 423(d) of this title) or such person living at the time (i) such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (ii) if such individual had a period of disability which continued until such individual became entitled to old-age insurance benefits or disability insurance benefits, or died, at the time such period of disability began, or (B) such person was legally adopted after the death of such individual by such individual's surviving spouse in an adoption that was decreed by a court of competent jurisdiction within the United States and such person's natural or adopting parent or stepparent was not living in such individual's household and making regular contributions toward such person's support at the time such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death, or (B) such child was adopted by such individual's surviving spouse before the end of two years after (i) the day on which such individual died or (ii) August 28, 1958; except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for

children. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h)(1)(B) of this section, would have been a valid marriage.

(f) Husband.

The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of Title 45.

(g) Widower.

The term "widower" (except when used in section 402(i) of this title) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of Title 45.

* * * * *

(i) Disability; period of disability.

* * * * *

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65. In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

* * * * *

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such quarter; and

(B) (i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage;

except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)).

* * * * *

(k) Waiver of nine-month retirement for widow, stepchild, or widower in case of accidental death or in case of serviceman dying in line of duty, or in case of remarriage to the same individual.

The requirement in clause (5) of subsection (c) of this section or clause (5) of subsection (g) of this section that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) of this section that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable nine-month period, if—

(1) his death—

(A) is accidental, or

(B) occurs in line of duty while he is a member of a uniformed service serving on active duty

(as defined in section 410(*l*)(2) of this title), unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months, or

(2)(A) the widow or widower of such individual had been previously married to such individual and subsequently divorced and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce; or

(B) the stepchild of such individual had been the stepchild of such individual during a previous marriage of such stepchild's parent to such individual which ended in divorce and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce;

except that paragraph (2) of this subsection shall not apply if the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1)(A) of this subsection, the death of an individual is accidental if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries. (As amended Oct. 30, 1972, Pub. L. 92–603, title I, §§ 104(g), 113(a), 115(b), 116(d), 117(a), 118(b), 145(a), 86 Stat. 1341, 1347, 1349–1351, 1370; Oct. 16, 1974. Pub. L. 93–445, title III, § 304, 88 Stat. 1358.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–445 substituted "section 231a of Title 45" for "section 228e of Title 45."

Subsec. (c). Pub. L. 93–445 substituted "section 231a of Title 45" for "section 228e of Title 45".

Subsec. (f). Pub. L. 93–445 substituted "section 231a of Title 45" for "section 228e of Title 45".

Subsec. (g). Pub. L. 93–445 substituted "section 231a of Title 45" for "section 228e of Title 45".

1972—Subsec. (e). Pub. L. 92–603, § 113(a), extended the definition of "child" to include grandchildren and stepgrandchildren of an individual or his spouse.

Subsec. (l)(2)(A). Pub. L. 92–603, § 116(d), substituted "five" for "6".

Subsec. (l)(2)(B). Pub. L. 92–603, § 118(b), provided for the filing of an application for a disability determination after the death of the insured individual.

Subsec. (l)(3). Pub. L. 92–603, §§ 104(g), 117(a), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" in subpar. (A) and substituted provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind for provisions excepting the provisions of subpar. (A) in the case of an individual with respect to whom a period of disability would, but for such subpar., begin before 1951 on the provisions following subpar. (B).

Subsec. (k). Pub. L. 92–603, §§ 115(b), 145(a), designated existing pars. (1) and (2) as subpars. (A) and (B) of par. (1), added par. (2), in par. (1), as so redesignated, substituted "unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months" for "and he would satisfy such requirement if a three-month period were substituted for the nine-month period", and in material following par. (2) substituted "except that paragraph (2) of this subsection shall not apply" for "except that this subsection shall not apply".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (e) of this section by section 113(a) of Pub. L. 92–603 applicable with respect to monthly benefits payable under this subchapter for months after Dec. 1972, but only on the basis of applications filed on or after Oct. 30, 1972, see section 113(c) of Pub. L. 92–603, set out as a note under section 402 of this title.

Amendment of subsec. (l)(2)(A) of this section by section 116(d) of Pub. L. 92–603 effective with respect to applications for disability determinations under subsec. (l) of this section filed on or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 116(e) of Pub. L. 92–603, set out as a note under section 423 of this title.

Section 118(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (l)(2)(B) of this section and section 423 (a)(1), (a)(2), (b), and (c)(2)(A) of this title] shall apply in the case of deaths occurring after December 31, 1969. For purposes of such amendments (and for purposes of sections 202(j)(1) and 223(b) of the Social Security Act [sections 402(j)(1) and 423(b) of this title], any application with respect to an individual whose death occurred after December 31, 1969, but before the date of the enactment of this Act [Oct. 30, 1972] which is filed in, or within 3 months after the month in which this Act is enacted [Oct. 1972] shall be deemed to have been filed in the month in which such death occurred."

Amendment of subsec. (l)(3) of this section by section 117(a) of Pub. L. 92–603 effective with respect to applications for disability determinations under subsec. (l) of this section filed in or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 117(c) of Pub. L. 92–603, set out as a note under section 423 of this title.

Amendment of subsec. (l)(3)(A) of this section by section 104(g) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with the figure "65" in subsec. (l)(3)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92–603, set out as a note under section 414 of this title.

Section 115(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (k) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [Oct. 1972]."

Section 145(b) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (k) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [Oct. 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 414, 417, 421, 422, 423, 428, 429, 431, 1382c, 1395ll of this title; title 5 section 8311; title 30 section 902; title 45 sections 231a, 231b, 231e, 231q.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4–523 of the District of Columbia Code.

§ 417. Benefits for veterans; definitions; determination of benefits.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970,

35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213, 405, 415, 429 of this title; title 20 section 880b–2; title 33 section 857; title 45 section 231b.

§ 418. Voluntary agreements for coverage of State and local employees.

* * * * *

(p) Policemen and firemen in certain States.

(1) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956, may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references there to in subsection (d)(1) and (d)(3) of this section, be modified pursurant to subsection (c)(4) of this section to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d)(3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desire, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 126, 86 Stat. 1358; Dec. 31, 1974, Priv. L. 93–107, 88 Stat. 2386.)

AMENDMENTS

1974—Subsec. (p)(1). Priv. L. 93–107 inserted "Montana," after "Maryland.".

1972—Subsec. (p)(1). Pub. L. 92–603 inserted "Idaho," after "Hawaii,".

MODIFICATION OF REPORTING PROCEDURES IN EFFECT DECEMBER 1, 1975, UNDER FEDERAL-STATE AGREEMENTS

Pub. L. 94–202, § 8(k), Jan. 2, 1976, 89 Stat. 1140, provided that: "Notwithstanding the provisions of section 218(1) of the Social Security Act [subsec. (l) of this section], nothing contained in the amendments made by the preceding provisions of this section [enacting section 432 of this title, and amending sections 401, 403, 424a, and 430 of this title and section 6103 of Title 26, Internal Revenue Code of 1954, and enacting provisions set out as notes under sections 401 and 432 of this title] shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(l) [subsec. (l) of this section], substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act [this section]."

MODIFICATION OF EXISTING AGREEMENT WITH NEW MEXICO TO COVER CERTAIN HOSPITAL EMPLOYEES

Section 127 of Pub. L. 92–603 provided that: "Notwithstanding any provisions of section 218 of the Social Security Act [this section], the Agreement with the State of New Mexico heretofore entered into pursuant to such section may at the option of such State be modified at any time prior to the first day of the fourth month after the month in which this Act is enacted [Oct. 1972], so as to apply to the services of employees of a hospital which is an integral part of a political subdivision to which an agreement under this section has not been made applicable, as a separate coverage group within the meaning of section 218(b)(5) of such Act [subsec. (b)(5) of this section], but only if such hospital has prior to 1966 withdrawn from a retirement system which had been applicable to the employees of such hospital."

MODIFICATION OF AGREEMENT WITH LOUISIANA WITH RESPECT TO VOTER REGISTRARS

Section 139 of Pub. L. 92–603 provided that:

"(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [subsec. (g)(1) of this section], the Secretary may, under such conditions as he deems appropriate, permit the State of Louisiana to modify its agreement entered into under section 218 of such Act [this section] so as to terminate the coverage of all employees who are in positions under the Registrars of Voters Employees' Retirement System, effective after December 1975, but only if such State files with him notice of termination on or before December 31, 1973.

"(b) If the coverage of such employees in positions under such retirement system is terminated pursuant to subsection (a), coverage cannot later be extended to employees in positions under such retirement system."

MODIFICATION OF AGREEMENTS WITH STATES WITH RESPECT TO CERTAIN STUDENTS AND PART-TIME EMPLOYEES

Section 141 of Pub. L. 92–603 provided that:

"(a) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with any State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time prior to January 1, 1974, so as to exclude either or both of the following:

"(1) service in any class or classes of part-time positions; or

"(2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

"(b) Any modification of such agreement pursuant to this section shall be effective with respect to services performed after the end of the calendar quarter following the calendar quarter in which such agreement is modified.

"(c) If any such modification terminates coverage with respect to service in any class or classes of part-time positions in any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to service in such positions in such coverage group; if such modification terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university."

MODIFICATION OF AGREEMENTS WITH WEST VIRGINIA WITH RESPECT TO CERTAIN POLICEMEN AND FIREMEN

Pub. L. 94–202, § 6, Jan. 2, 1976, 89 Stat. 1136, provided that:

"(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218

[subsec. (d)(1) and (d)(3) of this section], the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Jan. 2, 1976] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act [Jan. 2, 1976] paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of the section]. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

"(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

"(1) all services performed by such individual, in any policemen's or firemen's position to which the modification relates, on or after the date of the enactment of this Act [Jan. 2, 1976]; and

"(2) all services perormed by such individual in such a position before such date of enactment [Jan. 2, 1976] with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (c)(1) of such section 218 [subsec. (e)(1) of this section] at the time or times established pursuant to such subsection (e)(1) [subsec. (e)(1) of this section] if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare."

Section 143 of Pub. L. 92-603 provided that:

"(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsecs. (d)(1) and (d)(3) of this section] the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1974, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Oct. 30, 1972] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

"(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

"(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act [Oct. 30, 1972]; and

"(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section] at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405a, 409, 410, 411 of this title; title 26 sections 1402, 3121, 6413, 6511.

§ 421. Disability determinations.

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (b), which was classified to section 31 et seq. of title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

TRAVEL EXPENSES FOR MEDICAL EXAMINATIONS, RECONSIDERATION INTERVIEWS, AND PROCEEDINGS BEFORE ADMINISTRATIVE LAW JUDGES

Pub. L. 93-517, title II, § 200, Dec. 7, 1974, 88 Stat. 1645, provided in part that: "Such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVII of the Social Security Act [subchapters II, XVI, and XVII of this chapter]."

Similar provisions were contained in acts Aug. 10, 1971, Pub. L. 92-80, title II, § 200, 85 Stat. 296; Dec. 18, 1973, Pub. L. 93-192, title II, § 200, 87 Stat. 759.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 425, 1383b of this title.

§ 422. Rehabilitation services.

* * * * *

(b) Deductions on account of refusal to accept rehabilitation services.

(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 402 and 423 of this title for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower or surviving divorced wife who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to

accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

* * * * *

(d) Cost of rehabilitation services from trust funds.

(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

* * * * *

(D) entitled to widower's insurance benefits under section 402(f) of this title prior to attaining age 60,

to the end that savings will result to the Trust Funds as a result of rehabilitating the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection may not exceed—

(i) 1 percent in the fiscal year ending June 30, 1972,

(ii) 1.25 percent in the fiscal year ending June 30, 1973,

(iii) 1.5 percent in the fiscal year ending June 30, 1974, and thereafter,

of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability, the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 60, and the benefits under section 423 of this title, which were certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of services would have upon the Trust Funds.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, §§ 107(b)(3), (4), 131, 86 Stat. 1343, 1360.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsecs. (b)(1) and (d)(6), which was classified to section 31 et seq. of title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

AMENDMENTS

1972—Subsec. (b)(1). Pub. L. 92–603, § 107(b)(3), substituted "a widow, widower or surviving divorced wife who has not attained age 60" for "a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62".

Subsec. (d)(1). Pub. L. 92–603, §§ 107(b)(4), 131, substituted "age 60" for "age 62", and added provisions increasing applicable percentages so that the total amount made available pursuant to subsec. (d) may not exceed 1.25 percent, in the fiscal year ending June 30, 1973, and 1.5 percent, in the fiscal year ending June 30, 1974, and thereafter, of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b)(1) and (d)(1)(D) of this section by section 107(b)(3), (4), of Pub. L. 92–603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92–603, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 423, 424a of this title; title 26 section 1402.

§ 423. Disability insurance benefit payments.

(a) Disability insurance benefits.

(1) Every individual who—

* * * * *

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) of this section) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 416(i) of this title) which ceased, within the 60-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, or the third month following the month in which his disability ceases. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) of this section except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefits filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 402(q) of this title, such individual's disability insurance benefit

for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he had attained age 62 in—

* * * * *

and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 415(b)(3) of this title shall not include the year in which he attained age 62, or any year thereafter.

(b) Filing application.

An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1) of this section) shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month. An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the 12th month immediately succeeding such month.

(c) Definitions; insured status; waiting period.

For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such month, and

(B) (i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before the quarter in which he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of five consecutive calendar months—

(A) throughout which the individual with respect to whom such application is filed has been under a disability and

(B) (i) which begins not earlier than with the first day of the seventeenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such seventeenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such seventeenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, §§ 104(c), (d), 116(a), 117(b), 118(a), 86 Stat. 1340, 1350, 1351.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–603, § 118(a)(1), added provision for the filing of an application for disability insurance benefits after the death of the insured individual.

Subsec. (a)(2). Pub. L. 92–603, §§ 104(c), 118(a)(2), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" and substituted "an individual" for "a woman", "in which he attained age 62" for "in which she attained age 62", and "the application for disability insurance benefits was filed and he was" for "he filed his application for disability insurance benefits and was".

Subsec. (b). Pub. L. 92–603, § 118(a)(3), substituted "if such application is filed" for "if he files such application".

Subsec. (c)(1). Pub. L. 92–603, §§ 104(d), 117(b), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" in subpar. (A) and in the provisions following subpar. (B) added provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind.

Subsec. (c)(2). Pub. L. 92–603, §§ 116(a), 118(a)(4), substituted "five consecutive calendar months" for "six consecutive calendar months" in the provisions preceding subpar. (A), substituted "with respect to whom such application is filed" for "who files such application" in subpar. (A), and substituted "seventeenth" for "eighteenth" in subpar. (B).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (a)(2) and (c)(1)(A) of this section by section 104(c), (d) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with the figure "65" in subsec. (c)(1)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92–603, set out as a note under section 414 of this title.

Section 116(e) of Pub. L. 92–603 provided that:

"The amendments made by this section [amending subsec. (c)(2) of this section and sections 402(e)(6), (f)(7), and 416(l)(2)(A) of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], applications for widow's and widower's insurance benefits

based on disability under section 202 of such Act [section 402 of this title], and applications for disability determinations under section 216(i) of such act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Oct. 1972], or

"(2) before the month in which this Act is enacted [Oct. 1972], if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for any month before January 1973."

Section 117(c) of Pub. L. 92–603 provided that:

"The amendments made by this section [amending subsec. (c)(1) of this section and section 416(i)(3) of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Oct. 1972], or

"(2) before the month in which this Act is enacted [Oct. 1972] if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for months before January 1973."

Amendment of subsecs. (a)(1), (a)(2), (b), and (c)(2)(A) of this section by section 118(a) of Pub. L. 92–603 applicable in the case of deaths occurring after Dec. 31, 1969, with any applications with respect to an individual whose death occurred after Dec. 31, 1969, but before Oct. 30, 1972, to be deemed to have been filed in the month in which death occurred if filed in or within three months after Oct. 1972, see section 118(c) of Pub. L. 92–603, set out as a note under section 416 of this title.

LUMP SUM PAYMENT OF DISABILITY INSURANCE BENEFITS FOR PERIOD BEGINNING AFTER 1959 AND ENDING PRIOR TO 1964; FILING OF APPLICATION

Section 133 of Pub. L. 92–603 provided that:

"(a) If an individual would (upon the timely filing of an application for a disability determination under section 216(i) of the Social Security Act [section 416(i) of this title] and of an application for disability insurance benefits under section 223 of such Act [this section]) have been entitled to disability insurance benefits under such section 223 for a period which began after 1959 and ended prior to 1964, such individual shall, upon filing application for disability insurance benefits under such section 223 with respect to such period not later than 6 months after the date of enactment of this section [Oct. 30, 1972], be entitled, notwithstanding any other provision of title II of the Social Security Act [this subchapter], to receive in a lump sum as disability insurance benefits payable under section 223, an amount equal to the total amounts of disability insurance benefits which would have been payable to him for such period if he had timely filed such an application for a disability determination and such an application for disability insurance benefits with respect to such period; but only if—

"(1) prior to the date of enactment of this section [Oct. 30, 1972] and after the date of enactment of the Social Security Amendments of 1967 [Jan. 2, 1968] such period was determined (under section 216(i) of the Social Security Act [section 416(i) of this title]) to be a period of disability as to such individual; and

"(2) the application giving rise to the determination (under such section 216(i) [section 416(i) of this title] that such period is a period of disability as to such individual would not have been accepted as an application for such a determination except for the provisions of section 216(i)(2)(F) [section 416(i)(2)(F) of this title].

"(b) No payment shall be made to any individual by reason of the provisions of subsection (a) except upon the basis of an application filed after the date of enactment of this section [Oct. 30, 1972]."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 402, 403, 405, 409, 415, 416, 421, 422, 424a, 425, 426, 1320b–1, 1395p, 1395s, 1402, 1437a of this title; title 26 section 3121; title 30 sections 902, 922, 923; title 45 sections 231b, 231c, 231f.

§ 424a. Reduction of disability benefits through receipt of workmen's compensation.

(a) If for any month prior to the month in which an individual attains the age of 62—

* * * * *

For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage used for purposes of computing his benefits under section 423 of this title, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 423(d) of this title) and the five years preceding that year. In any case where an individual's wages and self-employment income reported to the Secretary for a calendar year reach the limitations specified in sections 409(a) and 411(b)(1) of this title, the Secretary under regulations shall estimate the total of such wages and self-employment income for purposes of clauses (B) and (C) of the preceding sentence on the basis of such information as may be available to him indicating the extent (if any) by which such wages and self-employment income exceed such limitations.

* * * * *

(f)(1) * * *

* * * * *

(2) In making the redetermination required by paragraph (1) of this subsection, the individual's average current earnings (as defined in subsection

(a) of this section) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) of this section and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year before the calendar year in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year before the calendar year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

• • • • •

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 119(a), (b), 86 Stat. 1352; Jan. 2, 1976, Pub. L. 94–202, § 8(j), 89 Stat. 1140.)

AMENDMENTS

1976—Subsec. (f) (2). Pub. L. 94–202 substituted "calendar year before the calendar year" for "calendar year" and "taxable year before the calendar year" for "taxable year".

1972—Subsec. (a). Pub. L. 92–603 added cl. (C) in provisions for the determination of an individual's average current earnings so as to introduce into the formula a factor of one-twelfth of the total wages and self-employment income for the calendar year in which he had the highest such wages and income during the year in which he became disabled and the five years preceding that year.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 119(c) of Pub. L. 92–603 provided that: "The amendments made by subsections (a) and (b) [amending subsec. (a) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 922.

§ 425. Suspension of benefits based on disability.

If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 423 of this title, or that a child who has attained the age of eighteen and is entitled to benefits under section 402(d) of this title, or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower who has not attained age 60 and is entitled to benefits under section 402(f) of this title, may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 402(d), 402(e), 402(f) or 423 of this title until it is determined (as provided in section 421 of this title) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subect to determination under an agreement with a State under section 421(b) of this title, the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 423(d) of this title. Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title). (As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 107(b)(5), 86 Stat. 1343.)

AMENDMENTS

1972—Pub. L. 92–603 substituted "age 60" for "age 62".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107 (c) of Pub. L. 92–603, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

§ 426. Entitlement to hospital insurance benefits.

(a) Individuals over 65 years.

Every individual who—

(1) has attained age 65, and

(2) is entitled to monthly insurance benefits under section 402 of this title or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month for which he meets the condition specified in subparagraph (B), beginning with the first month after June 1966 for which he meets the conditions specified in subparagraphs (A) and (B).

(b) Individuals under 65 years.

Every individual who—

(1) has not attained age 65, and

(2) (A) is entitled to, and has for 24 consecutive calendar months been entitled to, (i) disability insurance benefits under section 423 of this title or (ii) child's insurance benefits under section 402(d) of this title by reason of a disability (as defined in section 423(d) of this title) or (iii) widow's insurance benefits under section 402(e) of this title or widower's insurance benefits under section 402(f) of this title by reason of a disability (as defined in section 423(d) of this title), or (B) is, and has been for not less than 24 consecutive months a disabled qualified railroad retirement beneficiary, within the meaning of section 231f(d) of Title 45,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth consecutive month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him.

or if earlier, with the month before the month in which he attains age 65.

(c) Conditions.

For purposes of subsection (a) of this section—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of subchapter XVIII of this chapter on his behalf for inpatient hospital services, post-hospital extended care services, and post-hospital home health services (as such terms are defined in part C of subchapter XVIII of this chapter) furnished him in the United states (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1395f(f) of this title) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of subchapter XVIII of this chapter occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to hospital insurance benefits pursuant to subsection (b) of this section, at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 402 or section 423 of this title, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) Qualified railroad retirement beneficiary.

For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 231f(d) of Title 45. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 231f(d) of Title 45.

(e) Medicare eligibility on account of disability.

Notwithstanding the foregoing provisions of this section, every individual who—

(1) has not attained the age of 65;

(2) (A) is fully or currently insured (as such terms are defined in section 414 of this title) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term "employment" as defined in this chapter, or (B) is entitled to monthly insurance benefits under this subchapter or an annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term "employment" as defined in this chapter, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under this subchapter or an annuity under the Railroad Retirement Act of 1974; and

(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of subchapter XVIII of this chapter.

(f) Medicare eligibility on account of kidney failure.

Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the twelfth month after the month in which the person has a renal transplant or such course of dialysis is terminated.

(g) Reimbursement for kidney transplant and kidney treatment.

The Secretary is authorized to limit reimbursement under Medicare for kidney transplant and dialysis to kidney disease treatment centers which meet such requirements as he may by regulation prescribe: *Provided*, That such requirements must include at least requirements for a minimal utilization rate for covered procedures and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures.

(h) Benefits for widows and widowers.

(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 402(e)(1)(B)(ii), 402(e)(5) of this title, 402(f)(1)(B)(ii) and 402(f)(6) of this title shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 402(e)(1) of this title and the phrase "before he attained age 60" in the matter following subparagraph (G) of section 402(f)(1) of this title shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of an individual under age 65 who is entitled to benefits under section 402 of this title, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individuals shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor

(i) Certain uninsured individuals.

For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 426a of this title. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 201(b), 299I, 86 Stat. 1371, 1463; July 6, 1973, Pub. L. 93–58, § 3, 87 Stat. 142; Dec. 31, 1973, Pub. L. 93–233, § 18(f), 87 Stat. 969; Oct. 16, 1974, Pub. L. 93–445, title III, § 305, 88 Stat. 1358.)

REFERENCES IN TEXT

Railroad Retirement Act of 1974, referred to in subsec. (e)(2), is classified to section 231 et seq. of Title 45, Railroads.

CODIFICATION

Both subsecs. (h) and (i) were, in the original, subsec. (f) and were redesignated to accommodate the addition of subsecs. (f) and (g) by section 299I of Pub. L. 92–603.

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93–445, § 305(a), substituted "section 231f(d) of Title 45" for "section 228s–3 of Title 45".

Subsec. (d). Pub. L. 93–445, § 305(b), substituted "section 231f(d) of Title 45" for section 228s–2 or 228s–3 of Title 45", in two instances.

Subsec. (e). Pub. L. 93–445, § 305(c), substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937", wherever appearing.

1973—Subsec. (a). Pub. L. 93–233, § 18(f)(1)(A), redesignated subsec. (a)(1) as subsec. (a).

Subsec. (a)(1), (2). Pub. L. 93–233, § 18(f)(1)(B), redesignated cls. (A) and (B) as (1) and (2), respectively.

Subsec. (e)(2). Pub. L. 93–58, inserted in: item (2)(A) "or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term 'employment' as defined in this chapter" after "(as such terms are defined in section 414 of this title)"; item (2)(B) "or an annuity under the Railroad Retirement Act of 1937" after "this subchapter"; item (2)(C) "or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term 'employment' as defined in this chapter" after "fully or currently insured"; and item (2)(D) "or annuity under the Railroad Retirement Act of 1937" after "this subchapter".

Subsec. (h). Pub. L. 93–233, § 18(f)(1)(C), (2)–(4), redesignated as subsec. (h) provisions originally enacted as subsec. (e) by section 201(b)(5) of Pub. L. 92–603 and redesignated as subsec. (f) by section 299I of Pub. L. 92–603, and in par. (1)(A) substituted ", 402(e)(5) of this title," for "and 402(e)(5) of this title, and the term age 62 in sections", in par. (1)(B) substituted "and the phrase 'before he attained age 60' in the matter following subparagraph (G) of section 402(f)(1) of this title shall each" for "shall", and in pars. (2) and (3) substituted "(b)" for "(a)(2)", respectively.

Subsec. (i). Pub. L. 93–233, § 18(f)(1)(C), redesignated as subsec. (i) provisions originally enacted as subsec. (d) by section 101 of Pub. L. 89–97 and redesignated as subsec. (f) by section 201(b)(5) of Pub. L. 92–603.

1972—Subsec. (a). Pub. L. 92–603, § 201(b)(1), incorporated provisions of former subsec. (a) and subsec. (a)(1), and redesignated pars. (1) and (2) as subpars. (A) and (B).

Subsec. (b). Pub. L. 92–603, § 201(b)(1), added subsec. (b). Former subsec. (b) redesignated subsec. (c).

Subsec. (c)(1). Pub. L. 92–603, § 201(b)(2), (5), redesignated subsec. (b)(1) as subsec. (c)(1) and in subsec. (c)(1) as so redesignated, added reference to entitlement to hospital insurance benefits pursuant to subsec. (b) of this section. Former subsec. (c) redesignated subsec. (d).

Subsec. (c)(2). Pub. L. 92–603, § 201(b)(3), (5), redesignated subsec. (b)(2) as subsec. (c)(2) and, in subsec. (c)(2) as so redesignated, added reference to section 423 of this title. Former subsec. (c) redesignated subsec. (d).

Subsec. (d). Pub. L. 92–603, § 201(b)(4), (5), redesignated former subsec. (c) as subsec. (d) and, in subsec. (d) as so redesignated, added reference to section 228s–3 of Title 45. Former subsec. (d) redesignated subsec. (i).

Subsecs. (e)–(h). Pub. L. 92–603, §§ 201(b)(5), 299I, added subsecs. (e)–(h). See codification note above.

Subsec. (i). Pub. L. 92–603, § 201(b)(5), redesignated former subsec. (d) as subsec. (i). See codification note above.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–58 effective with respect to services provided on and after July 1, 1973, see section 4(a) of Pub. L. 93–58, set out as a note under section 228e of Title 45, Railroads.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299I of Pub. L. 92–603 provided in part that enactment of subsecs. (e)–(g) by section 299I of Pub. L. 92–603, is effective with respect to services provided on and after July 1, 1973.

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 426a, 1320b–1, 1395c, 1395e, 1395f, 1395h, 1395i–1, 1395i–2, 1395p, 1395u, 1395ff of this title; title 45 sections 231f, 231r.

§ 426a. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426, 1395i–2, 1395ff of this title.

§ 427. Transitional insured status for purposes of old-age and survivors insurance benefits.

(a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 414(a) of this title, the 6 quarters of coverage referred to in paragraph (1) of section 414(a) of this title shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 402(a) of this title, and of his wife to benefits under section 402(b) of this title, but, in the case of such wife, only if she attains the age of 72 before 1969 and only with respect to wife's insurance benefits under section 402(b) of this title for and after the month in which she attains such age. For each month before the month in which any such individual meets the

requirements of section 414(a) of this title, the amount of his old-age insurance benefit shall, notwithstanding the provisions of section 402(a) of this title, be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title and the amount of the wife's insurance benefit of his wife shall, notwithstanding the provisions of section 402(b) of this title, be the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(b) In the case of any individual who has died, who does not meet the requirements of section 414(a) of this title, and whose widow attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 414(a) of this title and in paragraph (1) thereof shall, for purposes of determining her entitlement to widow's insurance benefits under section 402(e) of this title, instead be—

(1) 3 quarters of coverage if such widow attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such widow attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such widow attains the age of 72 in 1968.

The amount of her widow's insurance benefit for each month shall, notwithstanding the provisions of section 402(e) of this title (and section 402(m) of this title), be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

• • • • •

(As amended Mar. 17, 1971, Pub. L. 92–5 title II, § 202(a), 85 Stat. 10; July 1, 1972, Pub. L. 92–336, title II, § 201(g)(1), 86 Stat. 411; Oct. 30, 1972, Pub. L. 92–603, title I, § 104(e), (f), 86 Stat. 1340; Dec. 31, 1973, Pub. L. 93–233, § 2(b)(1), 87 Stat. 952.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00".

Subsec. (b). Pub. L. 93–233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00".

1972—Subsec. (a). Pub. L. 92–336, § 201(g)(1)(A), substituted "$58.00" for "$48.30" and "$29.00" for "$24.20".

Subsec. (a)(1). Pub. L. 92–603, § 104(e), substituted "paragraph (1) of section 414(a) of this title" for "so much of paragraph (1) of section 414(a) of this title as follows clause (C)".

Subsec. (b). Pub. L. 92–336, § 201(g)(1)(B), substituted "$58.00" for "$48.30".

Subsec. (b)(1). Pub. L. 92–603, § 104(f), substituted "paragraph (1) thereof" for "so much of paragraph (1) thereof as follows clause (C)".

1971—Subsec. (a). Pub. L. 92–5, § 202(a)(1), substituted "$48.30" for "$46" and "$24.20" for "$23".

Subsec. (b). Pub. L. 92–5, § 202(a)(2), substituted "$48.30" for "$46".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b)(1) of Pub. L. 93–233 provided in part that amendment of subsecs. (a) and (b) of this section and section 428(b)(1), (2), (c)(3)(A), (B) of this title shall be effective June 1, 1974.

Amendment of subsecs. (a) and (b) of this section by section 2(b)(1) of Pub. L. 93–233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93–233, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment of subsecs. (a)(1) and (b)(1) of this section by section 104 (e), (f) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, see section 104(j) of Pub. L. 92–603, set out as a note under section 414 of this title.

Amendment by Pub. L. 92–336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972, see section 201(i) of Pub. L. 92–336, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 202(c) of Pub. L. 92–5 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after December 1970."

REPEAL OF AMENDMENT OF SUBSECS. (A) AND (B) THAT WOULD HAVE BEEN EFFECTIVE JAN. 1, 1975.

Section 2(b)(2) of Pub. L. 93–233 repealed section 202(a)(4) of Pub. L. 92–336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1975, substituted "the larger of $58.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $29.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00", applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title under provisions of section 2(c) of Pub. L. 93–233, set out as a note under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title.

§ 428. Benefits at age 72 for certain uninsured individuals.

• • • • •

(b) Amount of benefits.

(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be the larger of $64.40 or the amount recently established in lieu thereof under section 415(i) of this title.

(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title and the amount of the wife's benefit for such month shall be the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(c) Reduction for government pension system benefits.

• • • • •

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) the larger of $32.20 or the

amount most recently established in lieu thereof under section 415(i) of this title.

(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title, and

(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

* * * * *

(d) Suspension for months in which cash payments are made under public assistance or in which supplemental security income benefits are payable.

The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

* * * * *

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93–66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93–66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month.

* * * * *

(As amended Mar. 17, 1971, Pub. L. 92–5, title II, § 202(b), 85 Stat. 10; July 1, 1972, Pub. L. 92–336, title II, § 201(g)(2), 86 Stat. 411; Dec. 31, 1973, Pub. L. 93–233, §§ 2,b)(1), 18(c), 87 Stat. 952, 968.)

REFERENCES IN TEXT

Section 211 of Pub. L. 93–66, referred to in subsec. (d), is set out as a note under section 1382 of this title.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" in pars. (1) and (2) and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00" in par. (2).

Subsec. (c). Pub. L. 93–233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" in par. (3), subpar. (A) and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00" in par. (2) and par. (3) subpar. (B).

Subsec. (d). Pub. L. 93–233, § 18(c) provided for elimination of benefits at age 72 for uninsured individuals receiving supplemental security income benefits.

1972—Subsec. (b)(1). Pub. L. 92–336, § 201(g)(2)(A), substituted "$58.00" for "$48.30".

Subsec. (b)(2). Pub. L. 92–336, § 201(g)(2)(B), substituted "$58.00" for "$48.30" and "$29.00" for "$24.20".

Subsec. (c)(2). Pub. L. 92–336, § 201(g)(2)(C), substituted "$29.00" for "$24.20".

Subsec. (c)(3)(A). Pub. L. 92–336, § 201(g)(2)(D), substituted "$58.00" for "$48.30".

Subsec. (c)(3)(B). Pub. L. 92–336, § 201(g)(2)(E), substituted "$29.00" for "$24.20".

1971—Subsec. (b)(1). Pub. L. 92–5, § 202(b)(1), substituted "$48.30" for "$46."

Subsec. (b)(2). Pub. L. 92–5, § 202(b)(2), substituted "$48.30" for "$46" and "$24.20" for "$23".

Subsec. (c)(2). Pub. L. 92–5, § 202(b)(3), substituted "$24.20" for "$23".

Subsec. (c)(3)(A). Pub. L. 92–5, § 202(b)(4), substituted "$48.30" for "$46".

Subsec. (c)(3)(B). Pub. L. 92–5, § 202(b)(5), substituted "$24.20" for "$23".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment of subsecs. (b)(1), (2) and (c)(3)(A), (B) of this section by section 2(b)(1) of Pub. L. 93–233 effective June 1, 1974, see section 2(b)(1) of Pub. L. 93–233, set out in part as a note under section 427 of this title.

Amendment of subsecs. (b)(1), (2) and (c)(2)(3)(A), (B) of this section by section 2(b)(1) of Pub. L. 93–233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93–233, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972, see section 201(i) of Pub. L. 92–336, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1970, see section 202(c) of Pub. L. 92–5, set out as a note under section 427 of this title.

REPEAL OF AMENDMENT OF SUBSECS. (b)(1), (2) AND (c)(3)(A), (B) THAT WOULD HAVE BEEN EFFECTIVE JAN. 1, 1975

Section 2(b)(2) of Pub. L. 93–233 repealed section 202(a)(4) of Pub. L. 92–336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1975, substituted "the larger of $58.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $29.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00", applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title under provisions of section 2(c) of Pub. L. 93–233, set out as a note under section 415 of this title.

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 415, 1320b–1 of this title.

§ 429. Benefits in case of members of the uniformed services.

(a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he was paid wages for service as a member of a uniformed service (as defined in section 410(m) of this title) which was included in the term "employment" as defined in section 410(a) of this title as a result of the provisions of section 410(l) of this title, wages (in addition to the wages actually paid to him for such service) of $300.

(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter are paid after December 1967, such sums as the Secretary determines to be necessary to meet (1) the additional costs, resulting from subsection (a) of this section, of such benefits (including lump-sum death payments), (2) the additional administrative expenses resulting therefrom, and (3) any loss in interest to such trust funds resulting from the payment of such amounts. Such additional costs shall be determined after any increases in such benefits arising from the application of section 417 of this title have been made. (As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 120(a), 86 Stat. 1352.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603 substituted "December 1972" for "December 1967" and "after 1956" for "after 1967" and struck out provisions limiting the wages deemed to have been paid an individual in addition to the wages actually paid him for his service to $100 if the wages actually paid to him in a quarter were $100 or less or to $200 if the wages actually paid to him in a quarter were more than $100 but not more than $200.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 120(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring after December 1972 except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 229 of such Act [this section] applies, to monthly benefits under title II of such Act [this subchapter] for the month in which this Act is enacted [Oct. 1972], such amendments shall apply (1) only if a written request for a recalculation of such benefits by reason of such amendments) under the provisions of section 215 (b) and (d) of such Act [section 415 (b) and (d) of this title], as in effect at the time such request is filed, is filed by such individual, or any other individual, entitled to benefits under such title II [this subchapter] on the basis of such wages and self-employment income, and (2) only with respect to such benefits for months beginning with whichever of the following is later: January 1973 or the twelfth month before the month in which such request was filed. Recalculations of benefits as required to carry out the provisions of this section shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], and no such recalculation shall be regarded as a recomputation for purposes of section 215(f) of such Act [section 415(f) of this title]."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title; title 45 section 231b.

§ 430. Adjustment of the contribution and benefit base.

(a) Determination and publication by Secretary in Federal Register subsequent to cost-of-living benefit increase; effective date.

Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) of this section which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) Determination of amount.

The amount of such contribution and benefit base shall be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) the contribution and benefit base which was in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar year was made, and

(2) the ratio of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a) of this section,

with such product, if not a multiple of $300, being rounded to the next higher multiple of $300 where such product is a multiple of $150 but not of $300 and to the nearest multiple of $300 in any other case. For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) of this section prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the

Secretary for the first calendar quarter of such calendar year.

(c) Amount of base for period prior to initial cost-of-living benefit increase.

For purposes of this section, and for purposes of determining wages and self-employment income under sections 409, 411, 413, and 415 of this title and sections 1402, 3121, 3122, 3125, 6413, and 6654 of Title 26, the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 415(i) of this title becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section. (Aug. 14, 1935, ch. 531, title II, § 230, as added July 1, 1972, Pub. L. 92–336, title II, § 202(b)(1), 86 Stat. 416, and amended Oct. 30, 1972, Pub. L. 92–603, title I, § 144(a)(4), 86 Stat. 1370; July 9, 1973, Pub. L. 93–66, title II, § 203(c), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93–233, §§ 3(j), 5(c), 87 Stat. 952, 954; Jan. 2, 1976, Pub. L. 94–202, § 8(h), 89 Stat. 1139.)

REFERENCES IN TEXT

"Subsequent to the law which added this section", referred to in subsec. (c), means subsequent to the enactment of Pub. L. 92–336, which was approved July 1, 1972.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–202 substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year" and "made to" for "made to the latest of" in cl. (A) of par. (2), substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973 or the first calendar quarter of" in cl. (B) of par. (2), and added, following par. (2), provision directing that the average wages for the calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that calendar year.

1973—Subsec. (a). Pub. L. 93–233, § 3(j)(1), substituted "with the June" for "with the first month of the calendar year" and struck out "(along with the publication of such benefit increase as required by section 415(1)(2)(D) of this title)" following "such quarter occurs" and "(unless such increase in benefits is prevented from becoming effective by section 415(1)(2)(E) of this title)" following "shall be effective", respectively.

Subsec. (c). Pub. L. 93–233, §§ 3(j)(2), 5(c), substituted "the June" for "the first month" and "$13,200" for "$12,600", respectively.

Pub. L. 93–66 substituted "$12,600" for "$12,000".

1972—Subsec. (b)(2)(A). Pub. L. 92–603 substituted "of" for "or".

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 effective in like manner as if such amendment had been included in Title II of Pub. L. 92–336, see section 144(b) of Pub. L. 92–603, set out as a note under section 403 of this title.

COST-OF-LIVING INCREASE IN BENEFITS

For purposes of subsec. (a) of this section, the increase in benefits provided by section 2 of Pub. L. 93–233, revising benefits table of section 415(a) of this title and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93–233, set out as a note under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 411, 413, 415 of this title; title 26 sections 6413, 6654; title 29 section 1322.

§ 431. Benefits for certain individuals interned by United States during World War II.

(a) Definition.

For the purpose of this section the term "internee" means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry.

(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States.

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of Title 29, for each full week during such period; and

(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of Title 29, for each full week during such period.

(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon internment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of

Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 416 (i) (3) of this title.

(3) Upon application for benefits, a recalculation of benefits (by reason of this section), or a lump-sum death payment on the basis of the wages and self-employment income of any individual who was an internee, the Secretary of Health, Education, and Welfare shall accept the certification of the Secretary of Defense or his designee concerning any period of time for which an internee is to receive credit under paragraph (1) and shall make a decision without regard to clause (B) of paragraph (2) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the period for which such individual was an internee, a benefit described in clause (B) of paragraph (2) has been determined by such agency or instrumentality to be payable by it. If the Secretary of Health, Education, and Welfare has not been so notified, he shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (2) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by this section.

(4) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on any period for which any individual was an internee shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any individual who was an internee, such information as the Secretary deems necessary to carry out his functions under paragraph (3) of this subsection.

(c) Authorization of appropriations.

There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund for the fiscal year ending June 30, 1978, such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the position in which they would have been if the preceding provisions of this section had not been enacted. (Aug. 14, 1935, ch. 531, title II, § 231, as added Oct. 30, 1972, Pub. L. 92–603, title I, § 142(a), 86 Stat. 1367.)

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title.

§ 432. Processing of tax data.

The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of Title 26, to the Secretary for the purposes of this subchapter and subchapter XI of this chapter. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of Title 26. Notwithstanding the provisions of section 6103(a) of Title 26, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury. (Aug. 14, 1935, ch. 531, title II, § 232, as added Jan. 2, 1976, Pub. L. 94–202, § 8(b), 89 Stat. 1137.)

EFFECTIVE DATE

Section 8(c) of Pub. L. 94–202 provided that: "Section 232 of the Social Security Act [this section], as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1977."

SHORT TITLE

Section 8(a) of Pub. L. 94–202 provided that: "This section [enacting this section, amending sections 401, 403, 424a and 430 of this title, and section 6103 of Title 26, Internal Revenue Code of 1954, and enacting provisions set out as notes under this section and section 401 and 418 of this title] may be cited as the 'Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title; title 26 section 6103.

SUBCHAPTER III.—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 46–313, 46–314 of the District of Columbia Code.

§ 503. State laws, provisions required; stopping payments on failure to comply with law.

(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

* * * * *

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the

payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606 (b) of Title 26, Internal Revenue Code of 1939: *Provided,* That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further,* That the amounts specified by section 1103 (c) (2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; and

* * * * *

CODIFICATION

Subsec. (a) (5) of this section is set out in this Supplement to correct a typographical error.

SUBCHAPTER IV.—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1306a of this title; title 20 sections 241c, 241d–1; title 29 section 981; title 31 section 665; title 40 App., section 202.

PART A.—AID TO FAMILIES WITH DEPENDENT CHILDREN

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 428, 622, 644, 653, 654, 657, 1306, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 3195, 1395v, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 5103 of this title; title 26 section 50B, title 40 App., section 202.

§ 601. Appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 609 of this title.

§ 602. State plans for aid and services to needy families with children; contents; approval by Secretary.

(a) A State plan for aid and services to needy families with children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; (8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 632(b)(2) and (3) of this title); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income;

except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by

the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such persons were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use of[1] disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this subchapter or under subchapter I, X, XIV, XVI, XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient; (10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals; (11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this subchapter) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established); (12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title;

(13), (14) Repealed. Pub. L. 93–647, § 3(a)(2), Jan. 4, 1975, 88 Stat. 2348.

(15) provide as part of the program of the State for the provision of services under subchapter XX of this chapter (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them, and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services; (16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid resides is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17), (18) Repealed. Pub. L. 93–647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360.

(19) provide—

(A) that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; or

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor under section 633(g) of this title to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, persuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register.

(B) that aid under the plan will not be denied by reason of such registration or the individual's

[1] So in original. Probably should read "or".

certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 632(b)(2) or (3) of this title;

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 635(b) of this title;

(D) that (i) training incentives authorized under section 634 of this title, and income derived from a special work project under the program established by section 632(b)(3) of this title shall be disregarded in determining the needs of an individual under section 602(a)(7) of this title, and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 632(b)(2) or (3) of this title shall be taken into account;

(E) Repealed. Pub. L. 92–223, § 3(a)(5), Dec. 28, 1971, 85 Stat. 804.

(F) that if and for so long as any child, relative or individual (certified to the Secretary of Labor pursuant to subparagraph (G) has been found by the Secretary of Labor under section 633(g) of this title to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 606(b)(2) of this title (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 608 of this title will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall, for a period of sixty days, make payments of the type described in section 606(b)(2) of this title (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A), in accordance with the order of priority listed in section 633(a) of this title, such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under part C, (iii) will participate in the development of operational and employability plans under section 633(b) of this title; and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 608 of this title;

(21), (22) Repealed. Pub. L. 93–647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360.

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted; (24) provide that if an individual is receiving benefits under subchapter XVI of this chapter, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this subchapter and his income and resources shall not be counted as income and resources of a family under this subchapter; (25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administra-

tion of such plan; (26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 606(b)(2) of this title (without regard to subparagraphs (A) through (E) of such section);

(27) provide, that the State has in effect a plan approved under part D of this subchapter and operate a child support program in conformity with such plan; and (28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D of this subchapter, and retained by the State under section 657 of this title, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part.

* * * * *

(As amended Dec. 28, 1971, Pub. L. 92–223, § 3(a)(1)–(7), 85 Stat. 803, 804; Oct. 30, 1972, Pub. L. 92–603, title II, § 299E(c), title IV, § 414(a), 86 Stat. 1462, 1492; Jan. 4, 1975, Pub. L. 93–647, §§ 3(a)(1), (2), (8), 101(c)(2)–(5), (8), 88 Stat. 2348, 2349, 2359, 2360; Aug. 9, 1975, Pub. L. 94–88, title II, §§ 202, 207, 208(a), 209, 89 Stat. 434, 436, 437.)

CODIFICATION

Amendment by section 299E(c) of Pub. L. 92–603 has been executed to subsec. (a)(15)(A) as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a)(5). Pub. L. 93–647, § 3(a)(1), struck out designation of provisions as "(A)" preceding "such methods of administration", and provisions of former subpar. (B) relating to training and use of paid subprofessional staff, with emphasis in full or part time employment of low income recipients, and use of nonpaid or partially paid volunteers in providing services to applicants and in assisting advisory committees.

Subsec. (a)(9). Pub. L. 94–88, § 207, substituted requirement that the state plan provide safeguards restricting the use or disclosure of information concerning applicants or recipients to purposes directly connected with the administration of state plan approved under this part, any plan or program under other parts of this subchapter, or subchapters I, X, XIV, XVI, XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter, any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of such plan or program, and the administration of any other federal or federally assisted program which provides assistance directly to individuals on the basis of need, and that the safeguards so provided shall prohibit disclosure to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient, for requirement that the state plan provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to public officials who require such information in connection with their official duties, or other persons for purposes directly connected with the administration of aid to families with dependent children.

Pub. L. 93–647, § 101(c)(2), substituted provisions permitting disclosure to public officials requiring such information in connection with their duties and other persons for purposes directly connected with the administration of aid to families with dependent children, for provisions restricting disclosure to purposes directly connected with the administration of aid to such families.

Subsec. (a)(10). Pub. L. 93–647, § 101(c)(3), added ", subject to paragraphs (25) and (26)," before "be furnished".

Subsec. (a)(11). Pub. L. 93–647, § 101(c)(4) substituted provisions relating to prompt notice to the State child support collection agency with respect to an abandoned or deserted child, for provisions relating to prompt notice to the appropriate law-enforcement officials.

Subsec. (a)(13), (14). Pub. L. 93–647, § 3(a)(2), repealed subsecs. (a)(13) and (14), relating to a description of services made available by State agency to strengthen family life, including steps taken to utilize other services, and relating to development and application of program for such family services and child welfare services for prevention of abuse, neglect, etc., of children, respectively.

Subsec. (a)(15). Pub. L. 93–647, § 3(a)(8), added "as part of the program of the State for the provision of services under subchapter XX of this chapter" after "provide".

Subsec. (a)(17), (18). Pub. L. 93–647, § 101(c)(8), repealed subsec. (a)(17) and 18), which provided for the development and implementation of a state agency program for support and establishment of paternity of children born out of wedlock or abandoned by their parents, a single organizational unit in the local agency to be responsible for administration of such program, and cooperative arrangements with courts and law enforcement officials to assist in the administration of the program.

Subsec. (a)(21), (22). Pub. L. 93–647, § 101(c)(8), repealed subsec. (a)(21) and (22), which provided for report by State agency to Secretary of names and social security numbers of unlocated parents with dependent children against whom an order of support has been issued, and for cooperation with State agency in administration of the plan of another State in locating and securing compliance with parents in another State with such support order.

Subsec. (a)(24). Pub. L. 93–647, § 101(c)(5)(B), added "provide that" after "(24)".

Subsec. (a)(25) to (27). Pub. L. 93–647, § 101(c)(5)(C), added subsec. (a)(25) to (27).

Subsec. (a)(26). Pub. L. 94–88, § 208(a), substituted in subpar. (B), "payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance

with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed;" for "payments or property due such applicant or such child".

Subsec. (a)(27). Pub. L. 94–88, §§ 202(2), 209, substituted "the State has in effect" for "the States have in effect", and added "and" at the end of the paragraph.

Subsec. (a)(28). Pub. L. 94–88, § 202(3), added par. (28).

1972—Subsec. (a)(15)(A). Pub. L. 92–603, § 299E(c), added "(including minors who can be considered sexually active)" following "in all appropriate cases," and "and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services" following "family planning services are offered to them".

Subsec. (a)(24). Pub. L. 92–603, § 414(a), added par. (24).

1971—Subsec. (a)(15). Pub. L. 92–223, § 3(a)(1), incorporated in subpar. (A) existing provisions of former subpars. (A)–(C), less cl. (i) of former subpar. (A) respecting assurance, to maximum extent possible, that relative, child, and individual will enter the labor force and accept employment so as to become self-sufficient and cl. (i) of former subpar. (B) respecting assurances that the relative, child, or individual who is referred to the Secretary of Labor pursuant to cl. (19) is furnished child-care services, struck out former subpar. (D) provisions for review of each program as may be necessary (as frequently as may be necessary, but at least once a year) to insure that it is being effectively implemented and former subpar. (E) provisions for furnishing the Secretary with such reports as he may specify showing the results of such programs, and redesignated as subpar. (B) provisions of former subpar. (F), substituting "services provided" and "are furnished by the staff" for "such programs" and "are developed and implemented by services furnished by the staff."

Subsec. (a)(19)(A). Pub. L. 92–223, § 3(a)(2), in revising subpar. (A), substituted provisions for registration for manpower services, training, and employment, as a condition of eligibility for aid under this part, for former provisions respecting prompt referral to the Secretary of Labor or his representative for participation under a work incentive program established by part C; incorporated in: cl. (i), provisions of former cl. (i) respecting "each appropriate child and relative who has attained age sixteen and is receiving aid to families with dependent children" and former cl. (vi); cl. (ii), provisions of former cl. (iv); cl. (iii), provisions of former cl. (v); cl. (iv), provisions of former cl. (vii) less requirement of presence in home on substantially continuous basis; added cls. (v) and (vi) and concluding sentence respecting advice of option to register and of availability of child care services; and struck out former cl. (ii) for referral to Secretary of each appropriate individual (living in the same home as a relative and child receiving such aid) who has attained such age (16) and whose needs are taken into account in making the determination under subsec. (a)(7) of this section and former cl. (iii) for such referral of any other person claiming aid under the plan (not included in cls. (i) and (ii)), who, after being informed of the work incentive program, requests such referral unless the State agency determines that participation in any of such programs would be inimical to the welfare of such person or the family.

Subsec. (a)(19)(B). Pub. L. 92–223, § 3(a)(3), substituted "by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph," for "by reason of such referral".

Subsec. (a)(19)(C). Pub. L. 92–223, § 3(a)(4), substituted "10 per centum" for "20 per centum".

Subsec. (a)(19)(E). Pub. L. 92–223, § 3(a)(5), struck out subpar. (E) provisions respecting participation in special work projects and State agency payments and supplementation of earnings, plus 20 per centum of individual's earnings from special work projects.

Subsec. (a)(19)(F). Pub. L. 92–223, § 3(a)(6), substituted parenthetical clause, "(certified to the Secretary of Labor pursuant to subparagrap (G)" for "(referred to the Secretary of Labor pursuant to subparagraph (A)(i) and (ii) and section 607(b)(2) of this title)" in text preceding cl. (i).

Subsec. (a)(19)(G). Pub. L. 92–223, § 3(a)(7), added subpar. (G).

EFFECTIVE DATE OF 1975 AMENDMENTS

Section 210 of Pub. L. 94–88 provided that: "The amendments made by this title [amending this section and sections 603, 654, and 655 of this title and enacting provisions set out as notes under this section and section 655 of this title] shall, unless otherwise specified therein, become effective August 1, 1975."

Amendment by section 101 of Pub. L. 93–647 effective August 1, 1975, see secton 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, but not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299E(c) of Pub. L. 92–603 provided in part that the amendment to subsec. (a)(15)(A) by section 299E(c) of Pub. L. 92–603 shall be effective Jan. 1, 1973.

Section 414(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [enacting subsec. (a)(24) of this section] shall be effective on and after January 1, 1973.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3(c) of Pub. L. 92–223 provided that: "The amendments made by this section [enacting subsec. (a)(19)(G) of this section and sections 603(c), (d), 631(b), (c), 632(f), and 634(b) of this title; amending subsec. (a)(15), (19)(A)–(C), (F) of this section and sections 607(b)(2)(A), (c), 630, 632(b)(1), (3), (d), 633(a), (b), (e)(1), (2)(A), (B), (f)–(h), 635(a), (b), 636(b), 638, 639, 641(a), 642, 643, and 644(a), (c)(1), (d) of this title; and repealing subsec. (a)(19)(E) of this section and section 633(e)(3) of this title] shall, except as otherwise specified herein, take effect on July 1, 1972."

TEMPORARY WAIVERS OF CERTAIN REQUIREMENTS FOR CERTAIN STATES

Section 201(a), (b) of Pub. L. 94–88 provided that:

"(a) If the Governor of any State, which has an approved State plan under part A of title IV of the Social Security Act [this part], submits to the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), a request that any provision of section 402(a)(26) of the Social Security Act or section 402(a)(27) of such Act [subsec. (a)(26) or (a)(27) of this section] not be made applicable to such State prior to a date specified in the request (which shall not be later than June 30, 1976) and—

"(1) such request is accompanied by a certification, with respect to such provision, of the Governor that the State cannot implement such provision because of the lack of authority to do so under State law, and

"(2) such request fully explains the reasons why such provision cannot be implemented, and sets forth any provision of State law which impedes the implementation thereof,

the Secretary shall, if he is satisfied that such a waiver is justified, grant the waiver so requested.

"(b) During any period with respect to which a waiver, obtained under subsection (a) with respect to section 402(a)(26)(A) of the Social Security Act [subsec. (a)(26)(A) of this section], is in effect with respect to any State, the provisions of section 454 (4) and (5) of such Act [section 654 (4) and (5) of this title] shall be applied to such State in like manner as if the phrase 'with respect to whom an assignment under section 402(a)(26) of this title [subsec. (a)(26) of this section] is effective' did not appear therein, and the provisions of section 458 of such Act [section 658 of this title] shall be applied to such State in like manner as if the phrase 'support rights assigned under section 402(a)(26)' read 'child support obligation'."

REPORTS TO CONGRESSIONAL COMMITTEES

Section 201(d) of Pub. L. 94–88 provided that: "The Secretary shall from time to time, submit to the Commit-

tee on Finance of the State and the Committee on Ways and Means of the House of Representatives, full and complete reports (the first of which shall not be later than September 15, 1975) regarding any requests which he has received for waivers under subsection (a) [set out as a note herein] and any waivers granted by him under such subsection, and such reports shall include copies of all such requests for such waivers and any supporting documents submitted with or in connection with any such requests."

SUPPORT ASSIGNMENTS BY RECIPIENTS DURING TRANSMITTAL PERIOD

Section 203 of Pub. L. 94–88 provided that:

"(a) In the case of any State the law of which on August 1, 1975, meets the requirements of section 402(a)(26)(A) of the Social Security Act [subsec. (a)(26)(A) of this section], the requirements of such section shall be effective, with respect to individuals who are recipients on August 1, 1975, at such time as may be determined by the State agency, but not later than the time of the first redetermination of eligibility required after August 1, 1975, and in any event not later than February 1, 1976.

"(b) In the case of any State described in subsection (a), the provisions of section 454 (4) and (5) of the Social Security Act [section 654 (4) and (5) of this title] shall, during the period beginning August 1, 1975, and ending December 31, 1975, be applied, with respect to all recipients of aid under the State plan of such State (approved under Part A of title IV of such Act [this part] who have not made an assignment pursuant to section 402(a)(26)(A) of such Act [subsec. (a)(26)(A) of this section], in the case of such State in like manner as if the phrase 'with respect to whom an assignment under section 402(a)(26) of this title is effective' did not appear therein, and the provisions of section 458 of such Act [section 658 of this title] shall, during such period, be applied in the case of such State in like manner as if the phrase 'support rights assigned under section 402(a)(26)' read 'child support obligations'."

SUBMITTAL OF PROPOSED STANDARDS TO CONGRESS; EFFECTIVE DATE; DISAPPROVAL BY CONGRESS

Section 208(d) of Pub. L. 94–88 provided that:

"(1) The Secretary of Health, Education, and Welfare shall submit to the Congress any proposed standards authorized to be prescribed by him under section 402(a)(26)(B) of the Social Security Act (as added by the Social Services Amendments of 1974 and as amended by subsection (a) of this section) [subsec. (a)(26)(B) of this section]. Such standards shall take effect at the end of the period which ends 60 days after such proposed standards are so submitted to such committees unless, within such period, either House of the Congress, adopts a resolution of disapproval.

"(2) For purposes of this subsection, the term 'resolution' means only—

"(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the standards (as authorized under section 402(a)(26(B) of the Social Security Act) [subsec. (a)(26)(B) of this section] transmitted to the Congress on .', the blank space being filled with the appropriate date; and

"(B) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: 'That the does not approve the standards (as authorized under section 402(a)(26)(B) of the Social Security Act) [subsec. (a)(26)(B) of this section] transmitted to the Congress on .', with the first blank space being filled with the name of the resolving House, and the second blank space being filled with the appropriate date.

"(3) The provisions of subsection (b), (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 [subsec. (b), (c), (d), (e), and (f) of section 21922 of Title 19] shall be applicable to resolutions under this subsection, except that the '20 hours' referred to in subsections (d)(2) and (e)(2) of such section shall be deemed to read '4 hours'."

STATE PLANS TO DISREGARD CHILD SUPPORT PAYMENTS BEGINNING JULY 1, 1975

Section 101(c)(1) of Pub. L. 93–647 provided that: "Notwithstanding the provisions of section 402(a) of the Social Security Act [subsec. (a) of this section], in addition to the amounts required to be disregarded under clause (8)(A) of such section, there is imposed the requirement (and the State plan shall be deemed to include the requirement) that for the 15 months beginning July 1, 1975, in making the determination under clause (7), the State agency shall with respect to any month in such year and in addition to the amounts required to be disregarded under clause (8)(A), disregard amounts payable under section 457(a)(1) [section 657(a)(1) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 604, 606, 607, 608, 609, 622, 631, 632, 633, 636, 643, 644, 654, 656, 658, 1202, 1308, 1315, 1352 of this title; title 25 sections 683, 686, 689.

§ 603. Payment to States; computation of amounts; Federal share of assistance payments; social and supportive services; appropriation; family planning services and supplies; reduction of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

* * * * *

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

* * * * *

(iii) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

* * * * *

The services referred to in subparagraph (A) shall include only—

* * * * *

(D) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (C) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D). The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) applies shall be determined in accordance with such methods and procedures as may be permitted by the Secretary.

* * * * *

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 606(b)(2) of this title are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 602(a)(19)(F) or section 602(a)(26) of this title.

* * * * *

(c) Notwithstanding any other provision of this chapter, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 602(a)(19)(G) of this title, to the local employment office of the State as being ready for employment or training under part C, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 602(a)(19)(A) of this title.

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) of this section the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 602(a)(19)(G) of this title.

(2) Of the sums authorized by section 601 of this title to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

(e) Repealed. Pub. L. 93–647, § 3(a)(4), Jan. 4, 1975, 88 Stat. 2348.

(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under subsection (g) of this section) of such amount if such State—

(1) in the immediately preceding fiscal year failed to carry out the provisions of section 602(a)(15)(B) of this title as pertain to requiring the offering and arrangement for provision of family planning services; or

(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 602(a)(15)(B) of this title with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under subsection (f) of this section) of such amount if such State fails to—

(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under subchapter XIX of this chapter,

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.

(h) Notwithstanding any other provision of this chapter, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 602(a)(27) of this title in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof). (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(a)(8), (9), 85 Stat. 805; Oct. 20, 1972, Pub. L. 92–512, title III, § 301(b)–(d), 86 Stat. 946, 947; Oct. 30, 1972, Pub. L. 92–603, title II, §§ 299E(d), 299F, 86 Stat. 1462, 1463; Jan. 4, 1975, Pub. L. 93–647, §§ 3(a)(3), (4), (e)(2), 5(b), 101(c)(6)(A), 88 Stat. 2348–2350, 2360; Aug. 9, 1975, Pub. L. 94–88, title II, § 204, 89 Stat. 435.)

PAYMENTS FOR QUARTERS COMMENCING AFTER SEPTEMBER 30, 1975

Section 3(a)(3) and 7(b) of Pub. L. 93–647, effective with respect to payments under this section for quarters commencing after Sept. 30, 1975, amended subsec. (a)(3) of this section to read as follows, except that such amendment shall not be effective with respect to the Com-

monwealth of Puerto Rico, the Virgin Islands, or Guam:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures,

except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a)(1) of this Act [section 1397a(a)(1) of this title] other than services the provision of which is required by section 402(a)(19) [section 502(a)(19) of this title] to be included in the plan of the State; and"

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3)(C), (D), which was classified to section 31 et seq. of title 29, was repealed by section 500(e) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–88 substituted in provisions following par. (5), "section 602(a)(19)(F) or section 602(a)(26) of this title" for "section 602(a)(19)(F) of this title".

Pub. L. 93–647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iii). Pub. L. 93–647, § 5(b), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

Subsec. (e). Pub. L. 93–647, § 3(a)(4), repealed subsec. (e), which provided for payment to States of 90 per centum of amounts attributable to offering, arranging and furnishing of family planning services and supplies, directly or on contract basis.

Subsec. (h). Pub. L. 93–647, § 101(c)(6)(A), added subsec. (h).

1972—Subsec. (a). Pub. L. 92–512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(D). Pub. L. 92–512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

Subsec. (a)(5). Pub. L. 92–512, § 301(c), incorporated former subpar. (A) provisions in provisions designated as par. (5), and deleted at end thereof "in the form of payments or care specified in paragraph (1) of section 606(e) of this title" and former subpar. (B) provision which provided for inclusion in the amount 75 per centum of the total amount expended under the State plan during the quarter as emergency assistance to needy families with children in the form of services specified in par. (1) of section 606(e) of this title.

Subsecs. (e)–(g). Pub. L. 92–603 added subsecs. (e)–(g).

1971—Subsec. (c). Pub. L. 92–223, § 3(a)(8), added subsec. (c).

Subsec. (d). Pub. L. 92–223, § 3(a)(9), added subsec. (d).

EFFECTIVE DATE OF 1975 AMENDMENTS

Amendment by Pub. L. 94–88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94–88, set out as a note under section 602 of this title.

Amendment by section 101 of Pub. L. 93–647 effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under this section for quarters commencing after Sept. 30, 1975, but with amendment of subsecs. (a)(3) and (e) by section 3 of Pub. L. 93–647 not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93–647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of provisions preceding par. (1) of subsec. (a) and subsec. (a)(5), and subsec. (a)(3)(D) of this section by Pub. L. 92–512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92–512, set out as a note under section 1320b of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsecs. (c) and (d) of this section by Pub. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 604, 608, 609, 643, 652, 1315, 1318, 1319, 1397a of this title; title 25 section 639.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3–217 of the District of Columbia Code.

§ 604. Stopping payments on deviation from required provisions of plan or failure to comply therewith.

* * * * *

(c) No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 602(a)(27) of this title if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

(d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 602(a)(27) of this title, the reduction in any amount payable to such State required to be imposed under section 603(h) of this title shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section. (As amended Jan. 4, 1975, Pub. L. 93–647, § 101(c)(6)(B), 88 Stat. 2360.)

AMENDMENTS

1975—Subsecs. (c), (d). Pub. L. 93–647 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–647 effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

§ 606. Definitions.

When used in this part—

* * * * *

(d) Repealed. Pub. L. 93–647, § 3(a)(5), Jan. 4, 1975, 88 Stat. 2348.

* * * * *

(f) Notwithstanding the provisions of subsection (b) of this section, the term "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate. (As amended Jan. 4, 1975, Pub. L. 93–647, §§ 3(a)(5), 101(c)(7), 88 Stat. 2348, 2360.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–647, § 3(a)(5), repealed subsec. (d), which defined "family services".

Subsec. (f). Pub. L. 93–647, § 101(c)(7), added subsec. (f).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 101 of Pub. L. 93–647 effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

Amendment by section 3 of Pub. L. 93–647 effective with the respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, but not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

§ 607. Dependent children of unemployed fathers; definition.

* * * * *

(b) The provisions of subsection (a) of this section shall be applicable to a State if the State's plan approved under section 602 of this title.

* * * * *

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) of this section will be certified to the Secretary of Labor as provided in section 602(a)(19) of this title within thirty days after receipt of aid with respect to such children;

* * * * *

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a) of this section, (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b)(1) of this section, or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subparagraph (A) of subsection (b)(2) of this section), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 602(a)(19) of this title.

* * * * *

(As amended Dec. 28, 1971, Pub. L. 92–223, § 3(a)(10), (11), 85 Stat. 805.)

AMENDMENTS

1971—Subsec. (b)(2)(A). Pub. L. 92–223, § 3(a)(10), substituted "certified" for "referred".

Subsec. (c). Pub. L. 92–223, § 3(a)(11), substituted "certify such father" for "refer such father".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (b)(2)(A) and (c) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 606, 608 of this title.

§ 610. Repealed. Pub. L. 93–647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360.

Section, act Aug. 14, 1935, ch. 531, title IV, § 410, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 211(b), 81 Stat. 897, provided for furnishing by Secretary to Secretary of the Treasury the names of parents contained in reports from State agencies, for ascertainment of addresses, and authorization for appropriations for such purpose.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

PART B.—CHILD-WELFARE SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 602, 1397b, 1397c, 3195, 5103 of this title; title 40 App., section 202.

§ 620. Appropriations.

For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: $196,000,000 for the fiscal year ending June 30, 1973, $211,000,000 for the fiscal year ending June 30, 1974, $226,000,000 for the fiscal year ending June 30, 1975, $246,000,000 for the fiscal year ending June 30, 1976, and $266,000,000 for each fiscal year thereafter. (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, § 412, 86 Stat. 1492.)

AMENDMENTS

1972—Pub. L. 92–603 substituted "$196,000,000 for the fiscal year ending June 30, 1973, $211,000,000 for the fiscal year ending June 30, 1974, $226,000,000 for the fiscal year ending June 30, 1975, $246,000,000 for the fiscal year ending June 30, 1976, and $266,000,000" for "$55,000,000 for the fiscal year ending June 30, 1968, $100,000,000 for the fiscal year ending June 30, 1969, and $110,000,000."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 412 provided in part that the amendment by Pub. L. 92–603 shall be effective with respect to fiscal years beginning after June 30, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title.

§ 622. Payment to States; computation of amounts.

(a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

(A) provides that (i) the individual or agency designated pursuant to section 1397b(d)(1)(C)

of this title to administer or supervise the administration of the State's services program will administer or supervise the administration of such plan for child-welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child-welfare services.

* * * * * * *

(c) If on December 1, 1974, the agency of a State administering its plan under this part was not the agency designated pursuant to section 602(a)(3) of this title, subsection (a)(1)(A) of this section shall not apply with respect to such agency but only so long as such agency is not the agency designated under section 1397b(d)(1)(C) of this title, and if on December 1, 1974, the local agency administering the plan of a State under this part in a subdivision of the State is not the local agency in such subdivision administering the plan of such State under part A of this subchapter, subsection (a)(1)(A) of this section shall not apply with respect to such local agency but only so long as such local agency is not the local agency administering the program of the State for the provision of services under subchapter XX of this chapter. (As amended Jan. 4, 1975, Pub L. 93–647, § 3(a)(6), (7), (h), 88 Stat. 2348, 2349.)

AMENDMENTS

1975—Subsec. (a)(1)(A)(i). Pub. L. 93–647, § 3(a)(6), substituted "the individual or agency designated pursuant to section 1397b(d)(1)(C) of this title to administer or supervise the administration of the State's services program" for "the State agency designated pursuant to section 602(a)(3) of this title to administer or supervise the administration of the plan of the State approved under part A of this subchapter".

Subsec. (a)(1)(A)(ii). Pub. L. 93–647, § 3(a)(7), substituted "a single organizational unit in such State or local agency, as the case may be," for "the organizational unit in such State or local agency established pursuant to section 602(a)(15) of this title".

Subsec. (c). Pub. L. 93–647, § 3(h), added subsec. (c).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, but with amendment of subsecs. (a)(1)(A)(i), (ii) by section 3 Pub. L. 93–647 not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

PART C.—WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID UNDER STATE PLAN APPROVED UNDER PART A

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 602, 644 of this title; title 29 sections 883, 954.

§ 630. Statement of purpose.

The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in public service employment, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(1), 85 Stat. 805.)

AMENDMENTS

1971—Pub. L. 92–223 substituted "public service employment" for "special work projects".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 631. Authorization of appropriations.

(a) Transfer of moneys.

There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes.

(b) On-the-job training and public service employment programs; percentage limitation.

Of the amounts expended from funds appropriated pursuant to subsection (a) of this section for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 33⅓ per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 632(b)(1)(B) of this title and for carrying out the program of public service employment referred to in section 632(b)(3) of this title.

(c) Allotment to States; percentage limitation; formula.

Of the sums appropriated pursuant to subsection (a) of this section to carry out the provisions of this part for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 50 percent shall be allotted among the States in accordance with a formula under which each State receives (from the total available for such allotment) an amount which bears the same ratio to such total as—

(1) in the case of the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, the average number of recipients of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

(2) in the case of the fiscal year ending June 30, 1975, or in the case of any fiscal year thereafter,

the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 602(a)(19)(A) of this title bears to the average number of individuals in all States who, during such month, are so registered.

(As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(2), 85 Stat. 805.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–223, § 3(b)(2), designated existing provisions as subsec. (a).

Subsecs. (b), (c). Pub. L. 92–223, § 3(b)(2), added subsecs. (b) and (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsecs. (b) and (c) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 632. Establishment of programs.

(a) State and political subdivisions as situs for programs.

The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Description of programs.

Such programs shall include, but shall not be limited to, (1) (A) a program placing as many individuals as is possible in employment, and (B) a program utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of public service employment for individuals for whom a job in the regular economy cannot be found.

(c) Grants to or agreements with agencies or organizations.

In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private nonprofit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b) of this section.

(d) Use of authorities for providing manpower training and employment services and opportunities; use of funds; reimbursement of agencies for services.

In providing the manpower training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available to him under this chapter or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor shall use the funds appropriated to him under this part to provide programs required by this part through such other Act, to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to persons under this part to the extent such services and opportunities are not otherwise available on a nonreimbursable basis.

(e) Prohibition against reduction of other statutory manpower services.

The Secretary shall take appropriate steps to assure that the present level of manpower services available under the authority of other statutes to recipients of aid to families with dependent children is not reduced as a result of programs under this part.

(f) Labor Market Advisory Council; establishment for appropriate geographic area; functions; representation of area interests; institutional training.

(1) The Secretary of Labor shall establish in each State, municipality, or other appropriate geographic area with a sigfinficant number of persons registered pursuant to section 602(a)(19)(A) of this title a Labor Market Advisory Council the function of which will be to identify and advise the Secretary of the types of jobs available or likely to become available in the area served by the Council; except that if there is already located in any area an appropriate body to perform such function, the Secretary may designate such body as the Labor Market Advisory Council for such area.

(2) Any such Council shall include representatives of industry, labor, and public service employers from the area to be served by the Council.

(3) The Secretary shall not conduct, in any area, institutional training under any program established pursuant to subsection (b) of this section of any type which is not related to jobs of the type which are or are likely to become available in such area as determined by the Secretary after taking into account information provided by the Labor Market Advisory Council for such area. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(3), 85 Stat. 806.)

AMENDMENTS

1971—Subsec. (b)(1). Pub. L. 92–223, § 3(b)(3)(A)(i), substituted "(1)(A)" and "and (B) a program utilizing" for "(1)" and "and utilizing".

Subsec. (b)(3). Pub. L. 92–223, § 3(b)(3)(A)(ii), substituted "public service employment" for "special work projects".

Subsec. (d). Pub. L. 92–223, § 3(b)(3)(B), substituted provisions for use of authorities for providing manpower training and employment services and opportunities, use of funds, and reimbursement of agencies for services, for former provisions for utilization of authority under Manpower Development and Training Act of 1962, the Act of June 6, 1933, as amended (48 Stat. 113), and other Acts, where such authority is not inconsistent with this chapter.

Subsec. (f). Pub. L. 92–223, § 3(b)(3)(C), added subsec. (f).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (b)(1), (3) and (d), and enactment of subsec. (f) of this section by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 602, 631, 633, 634, 636, 642 of this title; title 26 section 50B.

§ 633. Operation of program.

(a) The Secretary shall provide a program of testing and counseling for all person certified to him by a State, pursuant to section 602(a)(19)(G) of this title, and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 632(b) of this title. Those not so selected shall be deemed suitable for the program established by clause (3) of such section 632(b) of this title unless the Secretary finds that there is good cause for an individual not to participate in such program. The Secretary, in carrying out such program for individuals certified to him under section 602(a)(19)(G) of this title, shall accord priority to such individuals in the following order, taking into account employability potential; first, unemployed fathers; second, mothers, whether or not required to register pursuant to section 602(a)(19)(A) of this title, who volunteer for participation under a work incentive program; third, other mothers, and pregnant women, registered pursuant to section 602(a)(19)(A) of this title, who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and fifth, all other individuals so certified to him.

(b) (1) For each State the Secretary shall develop jointly with the administrative unit of such State administering the special program referred to in section 602(a)(19)(G) of this title a statewide operational plan.

(2) The statewide operational plan shall prescribe how the work incentive program established by this part will be operated at the local level, and shall indicate (i) for each area within the State the number and type of positions which will be provided for training, for on-the-job training, and for public service employment, (ii) the manner in which information provided by the Labor Market Advisory Council (established pursuant to section 632(f) of this title) for any such area will be utilized in the operation of such program, and (iii) the particular State agency or administrative unit thereof which will be responsible for each of the various activities and functions to be performed under such program. Any such operational plan for any State must be approved by the Secretary, the administrative unit of such State administering the special program referred to in section 602(a)(19)(G) of this title, and the regional joint committee (established pursuant to section 639) for the area in which such State is located.

(3) The Secretary shall develop an employability plan for each suitable person certified to him pursuant to section 602(a)(19)(G) of this title, which shall describe the education, training, work experience, and orientation which it is determined that such person needs to complete in order to enable him to become self-supporting.

* * * * *

(e) (1) In order to develop public service employment under the program established by section 632(b)(3) of this title, the Secretary shall enter into agreements with (A) public agencies, (B) private nonprofit organizations established to serve a public purpose, and (C) Indian tribes with respect to Indians on a reservation, under which individuals deemed suitable for participation in such a program will be provided work which serves a useful public purpose and which would not otherwise be performed by regular employees.

(2) Such agreements shall provide—

(A) for the payment by the Secretary to each employer, with respect to public service employment performed by any individual for such employer, of an amount not exceeding 100 percent of the cost of providing such employment to such individual during the first year of such employment, an amount not exceeding 75 percent of the cost of providing such employment to such individual during the second year of such employment, and an amount not exceeding 50 percent of the cost of providing such employment to such individual during the third year of such employment;

(B) the hourly wage rate and the number of hours per week individuals will be scheduled to work in public service employment for such employer;

* * * * *

(3) Repealed. Pub. L. 92-223, § 3(b)(4)(C)(iv), Dec. 28, 1971, 85 Stat. 807.

* * * * *

(f) Before entering into a project under section 632(b)(3) of this title, the Secretary shall have reasonable assurances that—

* * * * *

(g) Where an individual, certified to the Secretary of Labor pursuant to section 602(a)(19)(G) of this title refuses without good cause to accept employment or participate in a project under a program established by this part, the Secretary of Labor shall (after providing opportunity for fair hearing) notify the State agency which certified such individual and submit such other information as he may have with respect to such refusal.

(h) With respect to individuals who are participants in public service employment under the program established by section 632(b)(3) of this title, the Secretary shall periodically (but at least once every six months) review the employment record of each such individual while on such special work project and on the basis of such record and such other information as he may acquire determine whether it would be feasible to place such individual in regular employment or on any of the projects under the programs established by section 632(b)(1) and (2) of this title. (As amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(4)(A)-(F), 85 Stat. 806, 807.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–223, § 3(b)(4)(A), substituted "certified to him by a State, pursuant to section 602(a)(19)(G) of this title" for "referred to him by a State, pursuant to section 602 of this title" and prescribed order of priorities, taking into account employability potential.

Subsec. (b). Pub. L. 92–223, § 3(b)(4)(B), added pars. (1) and (2) and designated existing provisions as par. (3), substituting "certified to him pursuant to section 602(a)(19)(G) of this title" and "such person needs" for "referred to him under section 602 of this title" and "each such person needs".

Subsec. (e)(1). Pub. L. 92–223, § 3(b)(4)(C)(i), substituted "public service employment" for "special work projects".

Subsec. (e)(2)(A). Pub. L. 92–223, § 3(b)(4)(C)(ii), substituted provisions for payment by the Secretary to each employer, with respect to public service employment performed by any individual for such employer, 100, 75, and 50 percent of cost of providing such employment during first, second, and third years of such employment, for prior provision for payment of portion of wages to be paid by the employer to the individuals for the work performed.

Subsec. (e)(2)(B). Pub. L. 92–223, § 3(b)(4)(C)(iii), substituted "in public service employment for" for "on special work projects of".

Subsec. (e)(3). Pub. L. 92–223, § 3(b)(4)(C)(iv), repealed par. (3) provisions for establishment of accounts for special work projects for deposit of State agency payments, availability of moneys for certain payments, and return of unexpended amounts as overpayments.

Subsec. (f). Pub. L. 92–223, § 3(b)(4)(D), substituted "section 632(b)(3) of this title" for "any of the programs established by this part".

Subsec. (g). Pub. L. 92–223, § 3(b)(4)(E), substituted "certified to the Secretary of Labor pursuant to section 602(a)(19)(G) of this title" and "which certified such individual" for "referred to the Secretary of Labor pursuant to section 602(a)(19)(A)(i) and (ii) of this title" and "which referred such individual".

Subsec. (h). Pub. L. 92–223, § 3(b)(4)(F), substituted "public service employment" for "special work projects".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a), (b), (e)(1), (2)(A), (B), and (f)–(h) and repeal of subsec. (e)(3) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 639, 644 of this title.

§ 634. Incentive payments and allowances for transportation and other costs.

(a) The Secretary is authorized to pay to any participant under a program established by section 632(b)(2) of this title an incentive payment of not more than $30 per month, payable in such amounts and at such times as the Secretary prescribes.

(b) The Secretary of Labor is also authorized to pay, to any member of a family participating in manpower training under this part, allowances for transportation and other costs incurred by such member, to the extent such costs are necessary to and directly related to the participation by such member in such training. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(4)(G), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–223, § 3(b)(4)(G)(i), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 92–223, § 3(b)(4)(G)(ii), added subsec. (b).

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsec. (b) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

§ 635. Federal assistance.

(a) Federal assistance under this part shall not exceed 90 per centum of the costs of carrying out this part. Non-Federal contributions may be cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Costs of carrying out this part include costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Secretary, but may not include any reimbursement for time spent by participants in work, training, or other participation in the program. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(5), 85 Stat. 808.)

AMENDMENT

1971—Subsec. (a). Pub. L. 92–223, § 3(b)(5)(A), substituted "90 per centum" for "80 per centum".

Subsec. (b). Pub. L. 92–223, § 3(b)(5)(B), struck out "; except that with respect to special work projects under the program established by section 632(b)(3) of this title, the costs of carrying out this part shall include only the costs of administration" following "participation in the program".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 641, 643 of this title.

§ 636. Period of enrollment.

* * * * *

(b) Services provided under this part may continue to be provided to an individual for such period as the Secretary determines (in accordance with regulations prescribed jointly by him and the Secretary of Health, Education, and Welfare) is necessary to qualify him fully for employment even though his earnings disqualify him from aid under a State plan approved under section 602 of this title. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(6), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–223 substituted "jointly by him and" for "by the Secretary after consultation with".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsec. (b) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 638. Participants not Federal employees.

Participants in programs established by this part shall be deemed not to be Federal employees and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee

benefits. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(7), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92–223 struck out words "projects under" preceding "programs".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 639. Rules and regulations.

The Secretary and the Secretary of Health, Education, and Welfare shall, not later than July 1, 1972, issue regulations to carry out the purposes of this part. Such regulations shall provide for the establishment, jointly by the Secretary and the Secretary of Health, Education, and Welfare, of (1) a national coordination committee the duty of which shall be to establish uniform reporting and similar requirements for the administration of this part, and (2) a regional coordination committee for each region which shall be responsible for review and approval of statewide operational plans developed pursuant to section 633(b) of this title. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(8), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92–223 provided for issuance of regulations not later than July 1, 1972, to provide for establishment of a national coordination committee (to establish uniform reporting and similar requirements) and a regional coordination committee for each region (to review and approve statewide operational plans).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 633 of this title.

§ 641. Evaluation and research.

The Secretary shall (jointly with the Secretary of Health, Education, and Welfare) provide for the continuing evaluation of the work incentive programs established by this part, including their effectiveness in achieving stated goals and their impact on other related programs. He also may conduct research regarding ways to increase the effectiveness of such programs. He may, for this purpose, contract for independent evaluations of and research regarding such programs or individual projects under such programs. For purposes of sections 635 and 643 of this title, the costs of carrying out this section shall not be regarded as costs of carrying out work incentive programs established by this part. Nothing in this section shall be construed as authorizing the Secretary to enter into any contract with any organization after June 1, 1970, for the dissemination by such organization of information about programs authorized to be carried on under this part. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(9), 85 Stat. 808.)

CODIFICATION

The designation "(a)" was directed to be inserted at the beginning of the section by section 3(b)(9)(A) of Pub. L. 92–223. However, since no subsec. (b) was added to the section by Pub. L. 92–223, such designation "(a)" has not been executed to the text.

AMENDMENTS

1971—Pub. L. 92–223 provided that section shall not be construed to authorize the Secretary to enter into any contract, with any organization after June 1, 1970, for dissemination by such organization of information about programs authorized to be carried on under this part.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 642. Technical assistance for providers of employment or training.

The Secretary is authorized to provide technical assistance to providers of employment or training to enable them to participate in the establishment and operation of programs authorized to be established by section 632(b) of this title. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(10), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92–223 substituted provisions respecting technical assistance for providers of employment or training, for former subsecs. (a) and (b) provisions respecting review of special work projects by a State panel.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

§ 643. Collection of State share.

If a non-Federal contribution of 10 per centum of the costs of the work incentive programs established by this part is not made in any State (as specified in section 602(a) of this title), the Secretary of Health, Education, and Welfare may withhold any action under section 604 of this title because of the State's failure to comply substantially with a provision required by section 602 of this title. If the Secretary of Health, Education, and Welfare does withhold such action, he shall, after reasonable notice and opportunity for hearing to the appropriate State agency or agencies, withhold any payments to be made to the State under sections 303(a), 603(a), 1203(a), 1353(a), 1383(a), and 1396b(a) of this title until the amount so withheld (including any amounts contributed by the State pursuant to the requirements in section 602(a)(19)(C) of this title) equals 10 per centum of the costs of such work incentive programs. Such withholding shall remain in effect until such time as the Secretary has assurances from the State that such 10 per centum will be contributed as required by section 602 of this title. Amounts so withheld shall be deemed to have been paid to the State under such sections and shall be paid by the Secretary of Health, Education, and Welfare to the Secretary. Such payment shall be considered a non-Federal contribution for purposes of section 635 of this title. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(11), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92–223 substituted "10 per centum" for "20 per centum" wherever appearing.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641 of this title.

§ 644. Agreements with other agencies providing assistance to families of unemployed parents.

(a) The Secretary is authorized to enter into an agreement (in accordance with the succeeding provisions of this section) with any qualified State agency (as described in subsection (b) of this section) under which the program established by the preceding sections of this part C will (except as otherwise provided in this section) be applicable to individuals certified by such State agency in the same manner, to the same extent, and under the same conditions as such program is applicable with respect to individuals certified to the Secretary by a State agency administering or supervising the administration of a State plan approved by the Secretary of Health, Education, and Welfare under part A of this subchapter.

* * * * *

(c)(1) Any agreement under this section with a qualified State agency shall provide that such agency will, with respect to all individuals receiving aid or assistance under the program of aid or assistance to families of unemployed parents administered by such agency, comply with the requirements imposed by section 602(a)(19) of this title in the same manner and to the same extent as if (A) such qualified agency were the agency in such State administering or supervising the administration of a State plan approved under part A of this subchapter, and (B) individuals receiving aid or assistance under the program administered by such qualified agency were recipients of aid under a State plan which is so approved.

* * * * *

(d) The Secretary shall, at the request of any qualified State agency referred to in subsection (a) of this section and upon receipt from it of a list of the names of individuals referred to the Secretary, furnish to such agency the names of each individual on such list participating in public service employment under section 633(a)(3) of this title whom the Secretary determines should continue to participate in such employment. The Secretary shall not comply with any such request with respect to an individual on such list unless such individual has been certified to the Secretary by such agency under section 602(a)(19(G) of this title for a period of at least six months. (As amended Dec. 28, 1971, Pub. L. 92–223, § 3(b)(12), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–223, § 3(b)(12)(A), substituted "certified" for "referred" wherever appearing.

Subsec. (c)(1). Pub. L. 92–223, § 3(b)(12)(B), substituted "section 602(a)(19) of this title" for "section 602(a)(15) and section 602(a)(19)(F) of this title".

Subsec. (d). Pub. L. 92–223, § 3(b)(12)(C), substituted "public service employment" for "a special work project", "employment" for "project" at end of first sentence, and "certified to the Secretary by such agency under section 602(a)(19)(G) of this title" for "referred to the Secretary by such agency under such section 602(a)(15) of this title".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a), (c)(1), and (d) of this section by Pub. L. 92–223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92–223, set out as a note under section 602 of this title.

PART D.—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY [NEW]

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 602, 1306 of this title.

§ 651. Authorization of appropriations.

For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. (Aug. 14, 1935, ch. 531, title IV, § 451, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat 2351.)

EFFECTIVE DATE

Section 101(f) of Pub. L. 93–647, as amended by Pub. L. 94–46, § 2, June 30, 1975, 89 Stat. 245, provided that: "The amendments made by this section [enacting this part and section 6305 of Title 26, amending sections 602, 603, 604, 606, and 1306 of this title, repealing section 610 of this title, and enacting provisions set out as notes under this section and section 602 of this title] shall become effective on August 1, 1975, except that section 459 of the Social Security Act [section 659 of this title], as added by subsection (a) of this section shall become effective on January 1, 1975, and subsection (e) of this section [enacting provision set out as a note under this section] shall become effective upon the date of the enactment of this Act [Jan. 4, 1975]."

AUTHORIZATION OF APPROPRIATIONS

Subsec. 101(e) of Pub. L. 93–647 provided that: "There are authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to plan and prepare for the implementation of the program established by this section [this part and section 6305 of Title 26, Internal Revenue Code]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 652 of this title.

§ 652. Duties of Secretary.

(a) Establishment of separate organizational unit; duties.

The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State

and determine for the purposes of the penalty provision of section 603(h) of this title whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 653 of this title; and

(10) not later than June 30 of each year beginning after December 31, 1975, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

(b) Certification of child support obligations to Secretary of Treasury for collection.

The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of Title 26. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) Revolving fund; appropriations.

(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 657 of this title such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of Title 26.

(2) There is hereby appropriated to the fund, out of any money in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of Title 26, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by section 651 of this title shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. (Aug. 14, 1935, ch. 531, title IV, § 452, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2351.)

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 653, 660 of this title; title 26 section 6305.

§ 653. Parent Locator Service.

(a) Establishment; purpose.

The Secretary shall establish and conduct a Parent Locator Service, under the direction of the designee of the Secretary referred to in section 652(a) of this title, which shall be used to obtain and transmit to any authorized person (as defined in subsection (c) of this section) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

(b) Disclosure of information to authorized persons.

Upon request, filed in accordance with subsection (d) of this section of any authorized person (as defined in subsection (c) of this section) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e) of this section, from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1) of this section.

(c) Authorized persons.

As used in subsection (a) of this section, the term "authorized person" means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

(2) the court which has authority to issue an order against an absent parent for the support

and maintenance of a child, or any agent of such court; and

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this subchapter) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

(d) Form and manner of request for information.

A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

(e) Compliance with request; search of files and records by head of any department, etc., of United States; transmittal of information to Secretary; reimbursement for cost of search; fees.

(1) Whenever the Secretary receives a request submitted under subsection (b) of this section which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c) of this section, he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3) of this section, a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) Arrangements and cooperation with State agencies.

The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) of this section and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section. (Aug. 14, 1935, ch. 531, title IV, § 453, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2353.)

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93-647, set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 652 of this title.

§ 654. State plan for child support.

A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 602(a)(26) of this title is effective, to establish the paternity of such child, unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 602(a)(26) of this title is effective, such payments shall be made to the State for distribution pursuant to section 657 of this title and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 657(c) of this title) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A of this subchapter;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to

any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collection and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 657 of this title;

(12) provide that any payment required to be made under section 656 or 657 of this title to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children; and

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments.

(Aug. 14, 1935, ch. 531, title IV, § 454, as added Jan. 4, 1975, Pub. L. 93–637, § 101(a), 88 Stat. 2354, and amended Aug. 9, 1975, Pub. L. 94–88, title II, § 208 (b), (c), 89 Stat. 436.)

AMENDMENTS

1975—Cl. (4)(A). Pub. L. 94–88, § 208(b), substituted "to establish the paternity of such child, unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so" for "to establish the paternity of such child".

Cl. (4)(B). Pub. L. 94–88, § 208(c), substituted "reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so)" for "reciprocal arrangements adopted with other States".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94–88, set out as a note under section 602 of this title.

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 655 of this title; title 26 section 6305.

§ 655. Payments to States.

(a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 654 of this title, and

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 654 of this title except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law;

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 654(6) of this title during any period beginning after June 30, 1976.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of

any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated. (Aug. 4, 1935, ch. 531, title IV, § 455, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2355, and amended Aug. 9, 1975, Pub. L. 94–88, title II, §§ 201(c), 205, 89 Stat. 433, 435.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–88, §§ 201(c), 205, designated existing provisions as subsec. (a), and in subsec. (a) as so designated, added provisions authorizing the Secretary to pay to each state for each quarter beginning with the quarter commencing July 1, 1975, an amount equal to 50 per cent of the total amounts expended by such state during such quarter for the operation of a plan which meets the conditons of section 654 of this title except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law.

Subsec. (b). Pub. L. 94–88, § 205, added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94–88, set out as a note under section 602 of this title.

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

PAYMENTS TO STATES FOR CERTAIN EXPENSES INCURRED DURING JULY 1975

Section 206 of Pub. L. 94–88 provided that: "Notwithstanding any other provision of law, amounts expended in good faith by any State (or by any of its political subdivisions) during July 1975 in employing and compensating staff personnel, leasing office space, purchasing equipment, or carrying out other organizational or administrative activities, in preparation for or implementation of the child support program under part D of title IV of the Social Security Act [this part], shall be considered for purposes of section 455 of such Act (as amended by this Act) [this section], to the extent that payment for the activities involved would be made under such section (as so amended) if section 101 of the Social Services Amendments of 1974 [Pub. L. 93–647] had become effective on July 1, 1975, to have been expended by the State for the operation of the State plan or for the conduct of activities specified in such section (as so amended)."

§ 656. Support obligation as obligation to State; amount; discharge in bankruptcy.

(a) The support rights assigned to the State under section 602(a)(26) of this title shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1) (A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 602(a)(26) of this title is not released by a discharge in bankruptcy under the Bankruptcy Act. (Aug. 14, 1935, ch. 531, title IV, § 456, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2356.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (b), is classified generally to Title 11, Bankruptcy.

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 654 of this title.

§ 657. Distribution of proceeds.

(a) Amount collected during fifteen month period beginning July 1, 1975.

The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:

(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;

(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(b) Amount collected during any fiscal year beginning after September 30, 1976.

The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall be distributed as follows:

(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(3) such amounts as are excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(c) Collection after termination of assistance.

Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this subchapter, the State may—

(1) continue to collect such support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this subchapter, and pay all amounts so collected to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

(Aug. 14, 1935, ch. 531, title IV, § 457, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2356.)

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 652, 654, 658 of this title.

§ 658. Incentive payments to State or political subdivision for enforcement and collection of support rights; allocation among jurisdictions.

(a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collecion of the support rights assigned under section 602(a)(26) of this title (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent—

(1) an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) which is attributable to the support obligation owed for 12 months; and

(2) an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) which is attributable to the support obligation owed for any month after the first twelve months for which such collections are made.

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraphs (1) and (2) of subsection (a) of this section shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary. (Aug. 14, 1935, ch. 531, title IV, § 458, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2357.)

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

§ 659. Consent by United States to garnishment and similar proceedings for enforcement of child support and alimony obligations.

Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to an individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments. (Aug. 14, 1935, ch. 531, title IV, § 459, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2357.)

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

EX. ORD. NO. 11881. DELEGATION OF AUTHORITY TO ISSUE REGULATIONS FOR IMPLEMENTATION OF SECTION

Ex. Ord. No. 11881, Oct. 3, 1975, 40 F.R. 46291, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, and as President of the United States of America, and to further the implementation of section 459 of the Social Security Act, as added by the Social Services Amendments of 1974 (88 Stat. 2357, 42 U.S.C. 659) [this section], it is hereby ordered as follows:

SECTION 1. (a) This order is applicable to all executive agencies of the Federal Government which make any payment of money, the entitlement to which is based upon remuneration for employment, to any individual.

(b) "Executive agency" means all departments, independent establishments, wholly-owned Federal corporations, and all agencies, boards, commissions, councils, bodies, groups, entities, organizations or instrumentalities of the Federal Government, including advisory bodies, except those in the legislative or judicial branches of the Federal Government.

SEC. 2. The Civil Service Commission shall, in consultation with the Department of Justice, issue regulations for the uniform implementation by all executive agencies of section 459 of the Social Security Act [this section]. The regulations shall establish standards for determining what constitutes remuneration for employment, shall provide procedures to facilitate appropriate service of process upon an executive agency, and shall establish such other standards and procedures as are necessary or appropriate for the uniform implementation of this order and section 459 of the Social Security Act [this section]. Such regulations may require that executive agency regulations be issued as appendices thereto.

SEC. 3. Each executive agency shall issue such rules, regulations and directives, pursuant to and in accord with those issued by the Civil Service Commission pursuant to this order, as are necessary to implement the regulations

of the Civil Service Commission, this order and section 459 of the Social Security Act [this section].

SEC. 4. Regulations issued pursuant to this order by the Civil Service Commission and all other executive agencies shall be made available to the public by publication in the FEDERAL REGISTER.

GERALD R. FORD

§ 660. Civil action to enforce child support obligations; jurisdiction of district courts.

The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 652(a)(8) of this title. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides. (Aug. 14, 1935, ch. 531, title IV, § 460, as added Jan. 4, 1975, Pub. L. 93–647, § 101(a), 88 Stat. 2358.)

EFFECTIVE DATE

Section effective August 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of this title.

SUBCHAPTER V.—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1320a–1, 1320c–7, 1320c–8, 1395b–1, 1395x of this title.

§ 701. Appropriation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704, 705, 713, 716 of this title.

§ 702. Purposes for which funds are available.

Appropriations pursuant to section 701 of this title shall be available for the following purposes in the following proportions:

(1) In the case of the fiscal year ending June 30, 1969, and each of the next 5 fiscal years, (A) 50 percent of the appropriation for such year shall be for allotments pursuant to sections 703 and 704 of this title; (B) 40 percent thereof shall be for grants pursuant to sections 708, 709, and 710 of this title; and (C) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

(2) In the case of the fiscal year ending June 30, 1975, and each fiscal year thereafter, (A) 90 percent of the appropriation for such years shall be for allotments pursuant to sections 703 and 704 of this title; and (B) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

(As amended July 10, 1972, Pub. L. 92–345, § 1, 86 Stat. 456; July 1, 1973, Pub. L. 93–53, § 4(a)(1), (2), 87 Stat. 135.)

AMENDMENTS

1973—Pub. L. 93–53 substituted "5" for "4" in par. (1), and "June 30, 1975" for "June 30, 1974" in par. (2).

1972—Pub. L. 92–345 substituted "4" for "3" in par. (1) and "June 30, 1974" for "June 30, 1973" in par. (2).

SECTION REFFERED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 705, 708, 709, 710, 711, 712, 1308 of this title.

§ 703. Allotments to States for maternal and child health services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704a, 706, 716, 1308 of this title.

§ 704. Allotments to States for crippled children's services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704a, 706, 716, 1308 of this title.

§ 704a. Allotments excluded from computation.

REPEATED

Pub. L. 92–80, title II, § 200, Aug. 10, 1971, 85 Stat. 290.

§ 705. State plans; contents; approval by Secretary.

(a) In order to be entitled to payments from allotments under section 702 of this title, a State must have a State plan for maternal and child health services and services for crippled children which—

* * * * *

(6) provides for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1320a–1 of this title, which shall be developed by the State and included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1395x(v) of this title as the reasonable cost of such services for purposes of subchapter XVIII of this chapter;

* * * * *

(8) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 708 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily helping to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with child bearing and of satisfactorily helping to reduce infant and maternal mortality;

(9) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 709 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the health of children and youth of school or preschool age;

(10) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 710 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the dental health of children and youth of school or preschool age;

* * * * *

(13) provides that, where payment is authorized under the plan for services which an optometrist is licensed to perform, the individual for whom such payment is authorized may, to the extent

practicable, obtain such services from an optometrist licensed to perform such services except where such services are rendered in a clinic, or another appropriate institution, which does not have an arrangement with optometrists so licensed;

(14) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan; and

(15) provides—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2); and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title, or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this subchapter.

* * * * *

(As amended July 10, 1972, Pub. L. 92–345, § 2(a)–(c), 86 Stat. 456, 457; Oct. 30, 1972, Pub. L. 92–603, title II, §§ 221(c)(1), 232(b), 239(c), 86 Stat. 1389, 1411, 1417; July 1, 1973, Pub. L. 93–53, § 4(a)(3)–(5), 87 Stat. 135.)

AMENDMENTS

1973—Subsec. (a)(8). Pub. L. 93–53, § 4(a)(3), substituted "July 1, 1974" for "July 1, 1973".

Subsec. (a)(9). Pub. L. 93–53, § 4(a)(4), substituted "July 1, 1974" for "July 1, 1973".

Subsec. (a)(10). Pub. L. 93–53, § 4(a)(5), substituted "July 1, 1974" for "July 1, 1973".

1972—Subsec. (a)(6). Pub. L. 92–603, §§ 221(c)(1), 232(b), added provisions that the reasonable cost of inpatient hospital services shall not exceed the amount determined under section 1395x(v) of this title and inserted reference to the consistency of methods and standards with section 1320a–1 of this title for determining the reasonable cost of inpatient hospital services.

Subsec. (a)(8). Pub. L. 92–345, § 2(a), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(9). Pub. L. 92–345, § 2(b), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(10). Pub. L. 92–345, § 2(c), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(15). Pub. L. 92–603, § 239(c)(3), added par. (15).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 232(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (a)(6) of this section and section 1396a(a)(13)(D) of this title] shall be effective July 1, 1972 (or earlier if the State plan so provides)."

Section 239(d) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting subsec. (a)(15) of this section and amending section 1396a(a) of this title] shall be effective January 1, 1973 (or earlier if the State plan so provides)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 707, 709, 716 of this title.

§ 706. Payments to States; computation of amounts.

* * * * *

(f) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1395u(b)(3) of this title; or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under subchapter XVIII of this chapter with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1395y(d)(1) of this title or under clause (D), (E), or (F) of section 1395cc(b)(2) of this title; or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirement imposed by section 1395x(k) of this title for purposes of subchapter XVIII of this chapter; and if such hospital has in effect such a utilization review plan for purposes of subchapter XVIII of this chapter, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this subchapter; the Secretary is authorized to waive the requirements of this paragraph in any State if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1395x(k) of this title.

(g) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a–1 of this title.

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 221(c)(2), 224(d), 229(d), 233(d), 237(b), 86 Stat. 1389, 1395, 1410, 1412, 1416.)

AMENDMENTS

1972—Subsec. (f). Pub. L. 92–603, §§ 224(d), 229(d), 233(d), 237(b), added subsec. (f).

Subsec. (g). Pub. L. 92–603, § 221(c)(2), added subsec. (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Enactment of subsec. (f)(3) of this section by section 233(d) of Pub. L. 92–603, applicable with respect to services furnished by hospitals in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92–603, set out as a note under section 1395f of this title. See, also, Pub. L. 93–233, § 16, Dec. 31, 1973, 87 Stat. 967, set out as a note under section 1395f of this title.

Enactment of subsec. (f)(4) of this section by section 237(b) of Pub. L. 92–603 applicable with respect to services furnished in calendar quarters beginning after June 30, 1973, see section 237(d)(1) of Pub. L. 92–603, set out as a note under section 1396b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704a of this title.

§ 708. Special project grants for maternity and infant care.

* * * * *

(b) No grant may be made under this section for any project for any period after June 30, 1974. (As amended July 10, 1972, Pub. L. 92–345, § 2(d), 86 Stat. 457; July 1, 1973, Pub. L. 93–53, § 4(a)(6), 87 Stat. 135.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–53 substituted "June 30, 1974" for "June 30, 1973".

1972—Subsec. (b). Pub. L. 92–345 substituted "June 30, 1973" for "June 30, 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706, 716 of this title.

§ 709. Special project grants for health of school and preschool children.

(a) In order to promote the health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, the Secretary is authorized to make, from the sums available under clause (B) of paragraph (1) of section 702 of this title, grants to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, to the State agency of the State administering or supervising the administration of the State plan approved under section 705 of this title, to any school of medicine (with appropriate participation by a school of dentistry), and to any teaching hospital affiliated with such a school, to pay not to exceed 75 percent of the cost of projects of a comprehensive nature for health care and services for children and youth of school age or for preschool children to help them prepare to start school). No project shall be eligible for a grant under this section unless it provides (1) for the coordination of health care and services provided under it with, and utilization (to the extent feasible) of, other State or local health, welfare, and education programs for such children, (2) for payment of (A) the reasonable cost (as determined in accordance with standards, consistent with section 1320a–1 of this title, approved by the Secretary) of inpatient hospital services provided under the project, or (B) if less, the customary charges with respect to such services provided under the project, or (C) if such services are furnished under the project by a public institution free of charge or at nominal charges to the public, an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such institution for such services, and (3) that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control; and no such project for children and youth of school age shall be considered to be of a comprehensive nature for purposes of this section unless it includes (subject to the limitation in the preceding provisions of this sentence) at least such screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, both medical and dental, as may be provided for in regulations of the Secretary.

(b) No grant may be made under this section for any project for any period after June 30, 1974. (As amended July 10, 1972, Pub. L. 92–345, § 2(e), 86 Stat. 457; Oct. 30, 1972, Pub. L. 92–603, title II, §§ 221(c)(3), 233(e), 86 Stat. 1389, 1412; July 1, 1973, Pub. L. 93–53, § 4(a)(7), 87 Stat. 135.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–53 substituted "June 30, 1974" for "June 30, 1973".

1972—Subsec. (a). Pub. L. 92–603 designated existing provisions in clause (2) as subcl. (A), and in subcl. (A), as so designated, substituted "standards, consistent with section 1320a–1 of this title," for "standards" and added subcl. (B).

Subsec. (b). Pub. L. 92–345 substituted "June 30, 1973" for "June 30, 1972".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 233(e) of Pub. L. 92–603 applicable with respect to services furnished by hospitals in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92–603, set out as a note under section 1395f of this title. See, also, Pub. L. 93–233, § 16, Dec. 31, 1973, 87 Stat. 967, set out as a note under section 1395 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706, 716 of this title.

§ 710. Special project grants for dental health of children.

* * * * *

(b) No grant may be made under this section for any project for any period after June 30, 1974. (As amended July 10, 1972, Pub.L. 92–345, § 2(f), 86 Stat. 457; July 1, 1973, Pub. L. 93–53, § 4(a)(8), 87 Stat. 136.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–53 substituted "June 30, 1974" for "June 30, 1973".

1972—Subsec. (b). Pub. L. 92–345 substituted "June 30, 1973" for "June 30, 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706, 716 of this title.

§ 716. Supplemental allotments.

(a) Amount; requirement of State arrangements for continuation of services to population groups.

(1) For each fiscal year (commencing with the fiscal year ending June 30, 1975), there shall (subject to paragraph (2)) be allotted to each State

(from funds appropriated for such fiscal year pursuant to subsection (b) of this section) an amount, which shall be in addition to and available for the same purposes as the allotments of such State (as determined under sections 703 and 704 of this title), equal to the excess (if any) of—

(A) the amount of the allotment of such State (as determined under sections 703 and 704 of this title) for the fiscal year ending June 30, 1973, plus the amounts of any grants to such States under sections 708, 709, and 710 of this title, over

(B) the amount of the allotment of such State (as determined under sections 703 and 704 of this title) for such fiscal year which commences after June 30, 1973.

(2) No State shall receive an allotment under this section for any fiscal year, unless such State (in the administration of its State plan, approved under section 705 of this title) has in effect arrangements which the Secretary finds will provide for the continuation of appropriate services to population groups previously receiving services from funds made available (for the fiscal year ending June 30, 1974) to such State pursuant to sections 708, 709, and 710 of this title.

(b) Authorization of appropriations; limitation; reduction of allotments.

(1)(A) There are (subject to subparagraph (B)) hereby authorized to be appropriated for each fiscal year (commencing with the fiscal year ending June 30, 1975) such amounts as may be necessary to enable the Secretary to make the allotments authorized under subsection (a) of this section.

(B) Nothing contained in subparagraph (A) shall be construed to authorize, for any fiscal year, the appropriation under this subsection of any amount which is in excess of the amount by which—

(i) the amount authorized to be appropriated under section 701 of this title for such year exceeds

(ii) the total amounts appropriated pursuant to section 701 of this title for such year.

(2) If, for any fiscal years, the total amount appropriated pursuant to paragraph (1) is less than the total amount allotted to all States under subsection (a) of this section, then the amount of the allotment of each State (as determined under subsection (a) of this section) shall be reduced to an amount which bears the same ratio to the total amount appropriated pursuant to paragraph (1) for such fiscal year as the amount of the allotment of such State (as determined under subsection (a) of this section) bears to the total amount allotted to all States under subsection (a) of this section for such fiscal year. (Aug. 14, 1935, ch. 531, title V, § 516, as added July 1, 1973, Pub. L. 93–53, § 4(b), 87 Stat. 136.)

SUPPLEMENTAL ALLOTMENTS FOR FISCAL YEAR ENDING JUNE 30, 1974; AMOUNT; AUTHORIZATION OF APPROPRIATIONS; LIMITATION; REDUCTION OF ALLOTMENTS

Section 4(c) of Pub. L. 93–53 provided that:

"(1) In the case of any State, if for the fiscal year ending June 30, 1974, the sum of—

"(A) the amount of the allotment which such State would have received under section 503 of the Social Security Act [section 703 of this title] for such year (if subsection (a) of this section [amending sections 702 (1), (2), 705(a)(8)–(10), 708(b), 709(b), and 710 (b) of this title] had not been enacted), plus

"(B) the amount of the allotment which such State would have received under section 504 of such Act [section 704 of this title] for such year (if subsection (a) of this section [amending sections 702 (1), (2), 705(a)(8)–(10), 708(b), 709(b), and 710(b) of this title] had not been enacted),

is in excess of the sum of—

"(C) the aggregate of the allotments which such State received (for the fiscal year ending June 30, 1973) under such sections 503 and 504 [sections 703 and 704 of this title], plus

"(D) the aggregate of the grants received (for the fiscal year ending June 30, 1973) under sections 508, 509, and 510 of such Act [sections 708, 709, and 710 of this title],

then, for the fiscal year ending June 30, 1974, there shall be added to the allotments of such State, under sections 503 and 504 of such Act [sections 703 and 704 of this title], in such proportion to each such allotment as the State shall specify, an amount equal to such excess.

"(2)(A) There are (subject to subparagraph (B) hereby authorized to be appropriated, for the fiscal year ending June 30, 1974, such amounts as may be necessary to make the increase in allotments provided for in paragraph (1).

"(B) Nothing contained in subparagraph (A) shall be construed to authorize, for the fiscal year ending June 30, 1974, the appropriation under this paragraph of any amount which is in excess of the amount by which—

"(i) the amount authorized to be appropriated under section 501 [section 701 of this title] of such year, exceeds

"(ii) the total amounts appropriated pursuant to section 501 [section 701 of this title] for such year.

"(3) If, for the fiscal year ending June 30, 1974, the amount appropriated pursuant to the preceding provisions of this subsection is less than the total of the amounts authorized to be added to the allotments of States (as determined under paragraph (1)), then the amount to be added to the allotment of each State shall be reduced to an amount which bears the same ratio to the amount so appropriated for such year as the amount to be added to the allotment of such State (as determined under paragraph (1)) bears to the total of the amounts to be added to the allotments of all States (as determined under paragraph (1))."

SUBCHAPTER VI.—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1315, 1316, 1397b, 3024 of this title.

§§ 801 to 805. Repealed. Pub. L. 93–647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Section 801, act Aug. 14, 1935, ch. 531, title VI, § 601, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 302, 86 Stat. 1478, authorized appropriations for encouraging States to furnish rehabilitation to needy individuals 65 years of age or older, and the blind or disabled.

Section 802, act Aug. 14, 1935, ch. 531, title VI, § 602, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 302, 86 Stat. 1479, set out the necessary provisions for State plans for services to the aged, blind, or disabled.

Section 803, act Aug. 14, 1935, ch. 531, title VI, § 603, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 302, 86 Stat. 1481, provided for payments to States under approved plans for services to the aged, blind, or disabled.

Section 804, act Aug. 14, 1935, ch. 531, title VI, § 604, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 302, 86 Stat. 1484, provided for notification to States and termination of payments in case of noncompliance with laws or State plan.

Section 805, act Aug. 14, 1935, ch. 531, title VI, § 605, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 302, 86 Stat. 1484, defined "services to the aged, blind or disabled".

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to payments under section 803 for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SUBCHAPTER VII.—ADMINISTRATION

§ 905a. Same; additional use.

The Working Capital Fund of the Department of Health, Education, and Welfare shall on and after August 10, 1971, be available for expenses necessary for common personnel support services in the Washington area. (Pub. L. 92–80, title II, § 200, Aug. 10, 1971, 85 Stat. 297.)

CODIFICATION

Section was enacted as a part of section 200 of Department of Health, Education, and Welfare Appropriation Act, 1972, and not as a part of the Social Security Act which comprises this chapter.

SUBCHAPTER IX.—EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1396d of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 46–313 of the District of Columbia Code.

§ 1103. Amounts transferred to State accounts.

* * * * *

(b) Transfer of funds where State is ineligible.

* * * * *

(3) Repealed. Pub. L. 93–368, § 4(b), Aug 7, 1974, 88 Stat. 420.

(c) Use of funds.

* * * * *

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

* * * * *

(D) the appropriation law limits the total amount which may be obligated during a fiscal year to an amount which does not exceed the amount by which (i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) of this section during such fiscal year and the twenty-four preceding fiscal years, exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State during such twenty-five fiscal years.

For the purposes of subparagraph (D), amounts used by a State during any fiscal year shall be charged against equivalent amounts which were first transferred and which have not previously been so charged; except that no amount obligated for administration during any fiscal year may be charged against any amount transferred during a fiscal year earlier than the twenty-fourth preceding fiscal year. (As amended Dec. 29, 1971, Pub. L. 92–224, § 1, title II, § 204(c), 85 Stat. 810, 814; June 30, 1972, Pub. L. 92–329, § 2(d), 86 Stat. 398; Aug. 7, 1974, Pub. L. 93–368, § 4(b), 88 Stat. 420.)

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93–368 struck out par. (3) which related to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1972—Subsec. (b)(3). Pub. L. 92–329 added provisions relating to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1971—Subsec. (b)(3). Pub. L. 92–224, § 204(c), added par. (3).

Subsec. (c)(2). Pub. L. 92–224, substituted "twenty-four preceding fiscal years" and "such twenty-five fiscal years" for "fourteen preceding fiscal years" and "such fifteen fiscal years" in subpar. (D) of first sentence and "twenty-fourth preceding fiscal year" for "fourteenth preceding fiscal year" in second sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 1321 of this title; title 26 sections 3304, 3306.

§ 1104 Unemployment Trust Fund.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 46–306, 46–314 of the District of Columbia Code.

§ 1105. Extended Unemployment Compensation Account.

* * * * *

(b) Transfers to account.

(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a) of this section, an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 1101(b)(2) of this title during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 1101(b)(3) and (d) of this title.

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred. In the case of any month after March 1973 and before April 1974, the first sentence of this paragraph shall be applied by substituting "thirteen fifty-eighths" for "one-tenth".

* * * * *

(As amended June 30, 1972, Pub. L. 92–329, § 2(c), 86 Stat. 398.)

AMENDMENTS

1972—Subsec. (b)(1). Pub. L. 92–329 added provisions for transfers in the case of any month after March 1973 and before April 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1103 of this title.

SUBCHAPTER X.—GRANTS TO STATES FOR AID TO THE BLIND

REPEAL OF SUBCHAPTER X OF THIS CHAPTER EFFECTIVE JANUARY 1, 1974; INAPPLICABILITY OF REPEAL TO PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this subchapter is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title; title 7 section 2012; title 29 section 981; title 31 section 665.

§ 1201. Appropriations.

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 1202. State plans for aid to blind.

(a) A State plan for aid to the blind must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low-income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title or aid to families with dependent children under the State plan approved under section 602 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency shall disregard (A) the first $85 per month of earned income, plus one-half of earned income in excess of $85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and (C) may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $7.50 of any income; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that, in determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (13) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provisions of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

* * * * *

At the option of the State, the plan may provide that manuals and other policy issuances will be

furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter. In the case of any State (other than Puerto Rico and the Virgin Islands) which did not have on January 1, 1949, a State plan for aid to the blind approved under this subchapter, the Secretary shall approve a plan of such State for aid to the blind for purposes of this subchapter, even though it does not meet the requirements of clause (8) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the blind; but payments under section 1203 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1203 of this title under a plan approved under this section without regard to the provisions of this sentence. (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 405(b), 406(b), 407(b), 410(b), 413(b), 86 Stat. 1488, 1489, 1491, 1492.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–603, § 410(b), added "except to the extent permitted by the Secretary with respect to services," preceding "provide".

Subsec. (a)(4). Pub. L. 92–603, § 407(b), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(9). Pub. L. 92–603, § 413(b), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of aid to the blind.

Subsec. (a)(13). Pub. L. 92–603, § 405(b), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92–603, § 406(b), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203, 1204, 1206, 1315, 1352, 1382a of this title; title 25 sections 683, 686, 689.

§ 1203. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

* * * * *

(3) in the case of any State whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

* * * * *

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

* * * * *

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

* * * * *

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

* * * * *

(As amended Oct. 20, 1972, Pub. L. 92–512, title III, 801(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93–647, §§ 3(e)(2), 5(c), 88 Stat. 2349, 2350.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3)(D), (E), which was classified to section 31 et seq. of title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iv). Pub. L. 93–647, § 5(c), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92–512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(E). Pub. L. 92–512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93–647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of provisions prec. par. (1) of subsec. (a) and subsec. (a)(3)(E) of this section by Pub. L. 92–512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92–512, set out as a note under section 1320b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1202, 1315, 1318, 1319, 1397a of this title; title 25 section 639.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3–217 of the District of Columbia Code.

§§ 1204, 1205.

REPEAL OF SECTIONS EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that these sections are repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 1206. "Aid to the blind" defined.

For the purposes of this subchapter, the term "aid to the blind" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State, whose State plan approved under section 1202 of this title includes provision for—

* * * * *

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan. (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 408(b), 409(b), 86 Stat. 1490.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Pub. L. 92–603 authorized the State, at its option, to include within the term "aid to the blind" provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

SUBCHAPTER XI.—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 432 of this title.

PART A.—GENERAL PROVISIONS

§ 1301. Definitions.

(a) When used in this chapter—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used is subchapters IV, V, VII, XI, and XIX of this chapter includes the Virgin Islands and Guam. Such term when used in subchapter V of this chapter also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, and Guam, subchapters I, X, and XIV, and subchapter XVI of this chapter (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "State" when used in such subchapters (but not in subchapter XVI of this chapter as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 272(a), 86 Stat. 1451; Dec. 31, 1973, Pub. L. 93–233, § 18(z–2)(1)(A), 87 Stat. 973.)

REFERENCES IN TEXT

Section 301 of the Social Security Amendments of 1972, referred to in subsec. (a)(1), refers to the amendments made by section 301 of Pub. L. 92–603, title III, Oct. 30, 1972, 86 Stat. 1465. See section 1381 et seq. of this title.

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 93–233 struck out in first sentence references to subchapters I, X, XIV, and XVI of this chapter and added third sentence respecting the case of Puerto Rico, the Virgin Islands, and Guam.

1972—Subsec. (a)(1). Pub. L. 92–603 extended the benefits of subchapter V of this chapter to American Samoa and the Trust Territory of the Pacific Islands.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 18(z–2)(2) of Pub. L. 93–233 provided that: "The amendments made by this subsection [to subsec. (a)(1) of this section and sections 1315 prec. (a), (a), (b) and 1316(a)(1), (3), (b) and (d) of this title] shall be effective on and after January 1, 1974."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 272(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (a)(1) of this section and section 1308(d) of this title] shall apply with respect to fiscal years beginning after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 1395x, 1396d of this title.

§ 1306. Disclosure of information in possession of Department of Health, Education, and Welfare or Department of Labor; compliance with requests for information and services.

(a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939; or under regulations made under authority thereof, which have been transmitted to the Secretary of Health, Education, and Welfare or to the Secretary of Labor, as the case may be, by the Commissioner of Internal Revenue, or of any file, record, report or other paper, or any information, obtained at any time by the Secretary of Health, Education, and Welfare, or the Secretary of Labor, or by any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor in the course of discharging their respective duties under this chapter, and no disclosure of any such file, record, report or other paper, or information, obtained at any time by any person from the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, or from any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor shall be made except as the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, may by regulations prescribe and except as provided in part D of subchapter IV of this chapter. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, to avoid undue interference with their respective functions under this chapter, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund for the unit or units of the Department of Health, Education, and Welfare or the Department of Labor, as the case may be, which furnished the information or services. Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of subchapter IV of this chapter for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of subchapter IV of this chapter.

(c) Repealed. Pub. L. 93–647, § 101(d)(3), Jan. 4, 1975, 88 Stat. 2360.

(d) Notwithstanding any other provision of this section the Secretary shall make available to each State agency operating a program under subchapter XIX of this chapter and shall, subject to the limitations contained in subsection (e) of this section, make available for public inspection in readily accessible form and fashion, the following official reports (not including, however, references to any internal tolerance rules and practices that may be contained therein, internal working papers or other informal memoranda) dealing with the operation of the health programs established by subchapters XVIII and XIX of this chapter—

(1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

(2) comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor operation; and

(3) program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews, except that such reports shall not identify individual patients, individual health care practitioners, or other individuals.

(e) No report described in subsection (d) of this section shall be made public by the Secretary or the State subchapter XIX agency until the contractor or provider of services whose performance is being evaluated has had a reasonable opportunity (not exceeding 60 days) to review such report and to offer comments pertinent parts of which may be incorporated in the public report; nor shall the Secretary be required to include in any such report information with respect to any deficiency (or improper practice or procedures) which is known by the Secretary to have been fully corrected, within 60 days of the date such deficiency was first brought to the attention of such contractor or provider of services, as the case may be. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 249C(a), 86 Stat. 1428; Jan. 4, 1975, Pub. L. 93–647, § 101(d), 88 Stat. 2360.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-647, § 101(d)(1), added "and except as provided in part D of subchapter IV of this chapter," after "may by regulations prescribe.".

Subsec. (b). Pub. L. 93-647, § 101(d)(2), added provision relating to compliance with requests for information made pursuant to the provisions of part D of subchapter IV of this chapter for the purpose of using Federal records to locate parents.

Subsec. (c). Pub. L. 93-647, § 101(d)(3), repealed subsec. (c), relating to requests by State or local agencies for the most recent address of any individual maintained pursuant to section 405 of this title, and the requirements for release of such information.

1972—Subsecs. (d), (e). Pub. L. 92-603 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-647 effective August 1, 1975, see section 101(f) of Pub. L. 93-647, set out as a note under section 651 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 249C(b) of Pub. L. 92-603 provided that: "The provisions of subsection (a) [enacting subsecs. (d) and (e) of this section] shall apply with respect to reports which are completed by the Secretary after the third calendar month following the enactment of this Act [Oct. 30, 1972]."

§ 1306a. Public access to State disbursement records.

No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to subchapter I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes. (Oct. 20, 1951, ch. 521, title VI, § 618, 65 Stat. 569, amended Sept. 13, 1960, Pub. L. 87-667, title VI, § 603(a), 74 Stat. 992; July 25, 1962, Pub. L. 87-543, title I, § 141(e), 76 Stat. 205.)

CODIFICATION

Section was enacted as part of the Revenue Act of 1951, and not as part of the Social Security Act which comprises this chapter.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-211 of the District of Columbia Code.

§ 1308. Limitation on payments to Puerto Rico, Virgin Islands, Guam, American Samoa, and Trust Territory of Pacific Islands.

(a) Except as provided in section 1397a(a)(2)(D) of this title, the total amount certified by the Secretary of Health, Education, and Welfare under subchapter I, X, XIV, and XVI of this chapter, and under part A of subchapter IV of this chapter (exclusive of any amounts on account of services and items to which subsection (b) of this section applies)—

* * * * *

(c) The total amount certified by the Secretary under subchapter XIX of this chapter with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $30,000,000,

(2) for payment to the Virgin Islands shall not exceed $1,000,000, and

(3) for payment to Guam shall not exceed $900,000.

(d) Notwithstanding the provisions of sections 702(a) and 712(a) of this title, and the provisions of sections 621, 703(1), and 704(1) of this title as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam, American Samoa, and the Trust Territory of the Pacific Islands as he may deem appropriate. (As amended Oct. 30, 1972, Pub. L. 92-603, title II §§ 271(a), (b), 272(b), 86 Stat. 1451; Jan. 4, 1975, Pub. L. 93-647, § 3(i), 88 Stat. 2350.)

REFERENCES IN TEXT

The Social Security Amendments of 1967, referred to in subsec. (d), is Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-647 substituted "Except as provided in section 1397a(a)(2)(D) of this title, the total amount" for "The total amount".

1972—Subsec. (c)(1). Pub. L. 92-603, § 271(a), substituted "$30,000,000" for "$20,000,000".

Subsec. (c)(2). Pub. L. 92-603, § 271(b), substituted "$1,000,000" for "$650,000".

Subsec. (d). Pub. L. 92-603, § 272(b), inserted ", American Samoa, and the Trust Territory of the Pacific Islands" after "allot such smaller amounts to Guam".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 271(c) of Pub. L. 92-603 provided that: "The amendments made by subsections (a) and (b) [amending subsec. (c) of this section] shall apply with respect to fiscal years beginning after June 30, 1971."

Amendment of subsec. (d) of this section by section 272(b) of Pub. L. 92-603 applicable with respect to fiscal years beginning after June 30, 1971, see section 272(c) of Pub. L. 92-603, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

§ 1313. Assistance for United States citizens returned from foreign countries.

* * * * *

(c) Definition of temporary assistance.

For purposes of this section, the term "temporary assistance" means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services) furnished to them within the United States upon their arrival in the United States and for such period after their arrival, not exceeding ninety days, as may be provided in regulations of the Secretary; except that assistance under this section may be furnished beyond such ninety-day period in the case of any citizen or dependent upon a finding by the Secretary that the circumstances involved necessitate or justify the furnishing of assistance beyond such period in that particular case.

(d) Maximum total amount of temporary assistance.

The total amount of temporary assistance provided under this section shall not exceed—

(1) $8,000,000 during the fiscal years ending June 30, 1975, and June 30, 1976, and the succeeding calendar quarter, or

(2) $300,000 during any fiscal year beginning on or after October 1, 1976.

(As amended July 1, 1971, Pub. L. 92–40, 85 Stat. 96; June 28, 1975, Pub. L. 94–44, §§ 1, 2, 89 Stat. 235.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–44, § 2, set a 90-day limit for assistance following arrival in the United States with provision for furnishing of assistance beyond the 90-day limit upon a finding by the Secretary that the circumstances involved necessitate or justify the furnishing of assistance in that particular case.

Subsec. (d). Pub. L. 94–44, §1, substituted provisions setting the maximum total amount of temporary assistance provided under this section for provisions prohibiting temporary assistance after June 30, 1973.

1971—Subsec. (d). Pub. L. 92–40 extended termination date from June 30, 1971, to June 30, 1973.

§ 1315. Demonstration projects; waiver of State plan requirements; costs regarded as State plan expenditures; availability of appropriations.

In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of subchapter I, VI, X, XIV, XVI, XIX, or XX of this chapter, or part A of subchapter IV of this chapter, in a State or States—

(a) the Secretary may waive compliance with any of the requirements of section 302, 602, 802, 1202, 1352, 1382, 1396a, 1397a, 1397b, or 1397c of this title, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(b) costs of such project which would not otherwise be included as expenditures under section 303, 603, 803, 1203, 1353, 1383, 1396b, or 1397a of this title, as the case may be, and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such subchapter, or for administration of such State plan or plans, or expenditures with respect to which payment shall be made under section 1397a of this title, as may be appropriate.

* * * * *

(As amended Dec. 31, 1973, Pub. L. 93–233, § 18(z–2)(1)(B), 87 Stat. 973; Jan. 4, 1975, Pub. L. 93–647, § 3(c), 88 Stat. 2349.)

REFERENCES IN TEXT

Sections 802 and 803 of this title, referred to in text, were repealed by Pub. L. 93–647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

AMENDMENTS

1975—Pub. L. 93–647, § 3(c)(1), substituted "XIX, or XX" for "or XIX".

Subsec. (a). Pub. L. 93–647, § 3(c)(2), added the references to sections 1397a, 1397b, and 1397c.

Subsec. (b). Pub. L. 93–647, § 3(c)(3), (4), substituted "1396b, or 1397a" for "1396b", and added "or expenditures with respect to which payment shall be made under section 1397a of this title" after "administration of such State plan or plans,".

1973—Pub. L. 93–233 inserted references: in text preceding subsec. (a) to subchapter VI of this chapter, in subsec. (a) to section 802 of this title, and in subsec. (b) to section 803 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective on and after Jan. 1, 1974, see section 18(z–2)(2) of Pub. L. 93–233, set out as a note under section 1301 of this title.

CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION IN EXPERIMENTAL, PILOT, OR DEMONSTRATION PROJECTS APPROVED BEFORE OCT. 1, 1973, FOR PERIOD ON-AND-AFTER DEC. 31, 1973, WITHOUT DENIAL OR REDUCTION ON ACCOUNT OF SUBCHAPTER XVI PROVISIONS FOR SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; WAIVER OF SUBCHAPTER XVI RESTRICTIONS FOR INDIVIDUALS; FEDERAL PAYMENTS OF NON-FEDERAL SHARE AS SUPPLEMENTARY PAYMENTS

Section 11 of Pub. L. 93–233 provided that:

"(a) If any State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) has any experimental, pilot, or demonstration project (referred to in section 1115 of the Social Security Act [this section])—

"(1) which (prior to October 1, 1973) has been approved by the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), for a period which ends on or after December 31, 1973, as being a project with respect to which the authority conferred upon him by subsection (a) or (b) of such section 1115 [subsec. (a) or (b) of this section] will be exercised, and

"(2) with respect to the costs of which Federal financial participation would (except for the provisions of this section) be denied or reduced on account of the enactment of section 301 of the Social Security Amendments of 1972 [enacting subchapter XVI of this chapter],

then, for any period (after December 31, 1973) with respect to which such project is approved by the Secretary, Federal financial participation in the costs of such project shall be continued in like manner as if—

"(3) such section 301 [enacting subchapter XVI of this chapter] had not been enacted, and

"(4) such State (for the month of January 1974 and any month thereafter) continued to have in effect the State plan (approved under title [subchapter] XVI [of this chapter]) which was in effect for the month of October 1973, or the State plans (approved under titles [subchapters] I, X, and XIV of the Social Security Act [this chapter]) which were in effect for such month, as the case may be.

"(b) With respect to individuals—

"(1) who are participants in any project to which the provisions of subsection (a) are applicable, and

"(2) with respect to whom supplemental security income benefits are (or would, except for their participation in such project, be) payable under title [subchapter] XVI of the Social Security Act [this chapter], or who meet the requirements for aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act [this chapter] of the State in which such project is conducted (as such State plan was in effect for July 1973),

the Secretary may waive such requirements of title [subchapter] XVI of such Act [this chapter] (as enacted by section 301 of the Social Security Amendments of 1972) to such extent as he determines to be necessary to the successful operation of such project.

"(c) In the case of any State which has entered into an agreement with the Secretary under section 1616 of the Social Security Act [section 1382e of this title] (or which is deemed, under section 212(d) of Public Law 93–66 [set out as a note under section 1382 of this title], to have entered into such an agreement), then, of the costs of any project of such State with respect to which

there is (solely by reason of the provisions of subsection (a)) Federal financial participation, the non-Federal share thereof shall—

"(1) be paid, from time to time, to such State by the Secretary, and

"(2) shall, for purposes of section 1616(d) of the Social Security Act [section 1382e(d) of this title] and section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title] be treated in like manner as if such non-Federal share were supplementary payments made by the Secretary on behalf of such State pursuant to such agreement."

§ 1316. Administrative and judicial review of public assistance determinations.

(a)(1) Whenever a State plan is submitted to the Secretary by a State for approval under subchapter I, VI, X, XIV, XVI, XIX or XX of this chapter, or part A of subchapter IV of this chapter, he shall, not later than 90 days after the date the plan is submitted to him, make a determination as to whether it conforms to the requirements for approval under such subchapter. The 90-day period provided herein may be extended by written agreement of the Secretary and the affected State.

* * * * *

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under sections 304, 604, 804, 1204, 1354, 1384, 1396c, or 1397b of this title may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which such State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of Title 28.

* * * * *

(b) For the purposes of subsection (a) of this section, any amendment of a State plan approved under subchapter I, VI, X, XIV, XVI, XIX, or XX of this chapter, or part A of subchapter IV of this chapter, may, at the option of the State, be treated as the submission of a new State plan.

* * * * *

(d) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under subchapter I, VI, X, XIV, XVI, or XIX, XX of this chapter, or part A of subchapter IV of this chapter, shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance. (As amended Dec. 31, 1973, Pub. L. 93–233, § 18(z–2)(1)(C), 87 Stat. 974; Jan. 4, 1975, Pub. L. 93–647, § 3(d), 88 Stat. 2349.)

REFERENCES IN TEXT

Section 804 of this title, referred to in text, was repealed by Pub. L. 93–647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93–647, § 3(d)(1), substituted "XIX or XX" for "or XIX".

Subsec. (a)(3). Pub. L. 93–647, § 3(d)(2), substituted "1396c, or 1397b" for "or 1396c".

Subsec. (b). Pub. L. 93–647, § 3(d)(1), substituted "XIX or XX" for "or XIX".

Subsec. (d). Pub. L. 93–647, § 3(d)(3), added "XX" after "XIX".

1973—Subsec. (a). Pub. L. 93–233, § 18(z–2)(1)(C)(i), (ii), inserted references in par. (1) to subchapter VI of this chapter and in par. (3) to section 804 of this title.

Subsec. (b). Pub. L. 93–233, § 18(z–2)(1)(C)(iii), inserted reference to subchapter VI of this chapter.

Subsec. (d). Pub. L. 93–233, § 18(z–2)(1)(C)(iv), inserted reference to subchapter VI of this chapter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective on and after Jan. 1, 1974, see section 18(z–2)(2) of Pub. L. 93–233, set out as a note under section 1301 of this title.

§ 1319. Federal participation in payments for repairs to home owned by recipient of aid or assistance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App., section 214.

§ 1320. Approval of certain projects; report to Congress.

* * * * *

(b) The Secretary shall submit an annual report to Congress setting forth a description of each project approved under subsection (a) of this section during the year preceding such report, including a statement of the purpose, probable cost, and expected duration of each such project. (As amended Jan. 2, 1975, Pub. L. 93–608, § 2(5), 88 Stat. 1971.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–608 substituted provisions relating to an annual submission of the required report to the Congress by the Secretary for each approved project, for provisions relating to submission of the report as soon as possible after approval.

§ 1320a. Repealed. Pub. L. 92–223, § 4(c), Dec. 28, 1971, 85 Stat. 810.

Section, act Aug. 14, 1935, ch. 531, title XI, § 1121, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 250(a), 81 Stat. 920, provided for assistance in the form of institutional services in intermediate care facilities, the subsecs. providing as follows: subsec. (a), modification of certain plans to include such benefit; subsec. (b), eligible individuals; subsec. (c), payments and Federal medical assistance percentage; subsec. (d), conditions, limitations, rights, and obligations applicable to modified plans; and subsec. (e), definition of "intermediate care facility", now covered in section 1396d(c) of this title.

CODIFICATION

Section was amended by Pub. L. 92–603, title II, § 278(a)(24), Oct. 30, 1972, 86 Stat. 1453, without reference to the earlier repeal of this section by Pub. L. 92–223.

EFFECTIVE DATE OF REPEAL

Section repealed by Pub. L. 92–223 effective Jan. 1, 1972, see section 4(d) of Pub. L. 92–223, set out as a note under section 1396a of this title.

§ 1320a–1. Limitation on use of Federal funds for capital expenditures.

(a) Use of reimbursement for planning activities for health services and facilities.

The purpose of this section is to assure that Federal funds appropriated under subchapters V, XVIII, and XIX of this chapter are not used to support unnecessary capital expenditures made by or on behalf of health care facilities or health maintenance organizations which are reimbursed under any of such

subchapters and that, to the extent possible, reimbursement under such subchapters shall support planning activities with respect to health services and facilities in the various States.

(b) Agreement between Secretary and State for submission of proposed capital expenditures related to health care facilities or health maintenance organizations, and procedures for appeal from recommendations.

The Secretary, after consultation with the Governor (or other chief executive officer) and with appropriate local public officials, shall make an agreement with any State which is able and willing to do so under which a designated planning agency (which shall be an agency described in clause (ii) of subsection (d)(1)(B) of this section that has a governing body or advisory board at least half of whose members represent consumer interests) will—

(1) make, and submit to the Secretary together with such supporting materials as he may find necessary, findings and recommendations with respect to capital expenditures proposed by or on behalf of any health care facility or health maintenance organization in such State within the field of its responsibilities.

(2) receive from other agencies described in clause (ii) of subsection (d)(1)(B) of this section, and submit to the Secretary together with such supporting material as he may find necessary, the findings and recommendations of such other agencies with respect to capital expenditures proposed by or on behalf of health care facilities or health maintenance organizations in such State within the fields of their respective responsibilities, and

(3) establish and maintain procedures pursuant to which a person proposing any such capital expenditure may appeal a recommendation by the designated agency and will be granted an opportunity for a fair hearing by such agency or person other than the designated agency as the Governor (or other chief executive officer) may designate to hold such hearings.

whenever and to the extent that the findings of such designated agency or any such other agency indicate that any such expenditure is not consistent with the standards, criteria, or plans developed pursuant to the Public Health Service Act (or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963) to meet the need for adequate health care facilities in the area covered by the plan or plans so developed.

(c) Manner of payment to States for carrying out agreement.

The Secretary shall pay any such State from the Federal Hospital Insurance Trust Fund, in advance or by way of reimbursement as may be provided in the agreements with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (b) of this section.

(d) Determination of amount of exclusions from Federal payments.

(1) Except as provided in paragraph (2), if the Secretary determines that—

(A) neither the planning agency designated in the agreement described in subsection (b) of this section nor an agency described in clause (ii) of subparagraph (B) of this paragraph had been given notice of any proposed capital expenditure (in accordance with such procedure or in such detail as may be required by such agency) at least 60 days prior to obligation for such expenditure; or

(B) (i) the planning agency so designated or an agency so described had received such timely notice of the intention to make such capital expenditure and had, within a reasonable period after receiving such notice and prior to obligation for such expenditure, notified the person proposing such expenditure that the expenditure would not be in conformity with the standards, criteria, or plans developed by such agency or any other agency described in clause (ii) for adequate health care facilities in such State or in the area for which such other agency has responsibility, and

(ii) the planning agency so designated had, prior to submitting to the Secretary the findings referred to in subsection (b) of this section—

(I) consulted with, and taken into consideration the findings and recommendations of, the State planning agencies established pursuant to sections 246(a) and 291d(a) of this title (to the extent that either such agency is not the agency so designated) as well as the public or nonprofit private agency or organization responsible for the comprehensive regional, metropolitan area, or other local area plan or plans referred to the section 246(b) of this title, and covering the area in which the health care facility or health maintenance organization proposing such capital expenditure is located (where such agency is not the agency designated in the agreement), or, if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria included in regulations, similar functions, and

(II) granted to the person proposing such capital expenditure an opportunity for a fair hearing with respect to such findings;

then, for such period as he finds necessary in any case to effectuate the purpose of this section, he shall, in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter with respect to services furnished in the health care facility for which such capital expenditure is made, not include any amount which is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), or other expenses related to such capital expenditure. With respect to any organization which is reimbursed on a per capita or a fixed fee or negotiated rate basis, in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter, the Secretary shall exclude an amount which in his judgment is a reasonable equivalent to the amount which would otherwise be excluded under this subsection if payment were to be made on other than a per capita or a fixed fee or negotiated rate basis.

(2) If the Secretary, after submitting the matters involved to the advisory council established or designated under subsection (i) of this section, determines that an exclusion of expenses related to any

capital expenditure of any health care facility or health maintenance organization would discourage the operation or expansion of such facility or organization, or any facility of such organization, which has demonstrated to his satisfaction proof of capability to provide comprehensive health care services (including institutional services) efficiently, effectively, and economically, or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of subchapter V, XVII, or XIX of this chapter, he shall not exclude such expenses pursuant to paragraph (1).

(e) Treatment of lease or comparable arrangement of any facility or equipment for a facility in determining amount of exclusions from Federal payments.

Where a person obtains under lease or comparable arrangement any facility or part thereof, or equipment for a facility, which would have been subject to an exclusion under subsection (d) of this section if the person had acquired it by purchase, the Secretary shall (1) in computing such person's rental expense in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter with respect to services furnished in such facility, deduct the amount which in his judgment is a reasonable equivalent of the amount that would have been excluded if the person had acquired such facility or such equipment by purchase, and (2) in computing such person's return on equity capital deduct any amount deposited under the terms of the lease or comparable arrangement.

(f) Reconsideration by Secretary of determinations.

Any person dissatisfied with a determination by the Secretary under this section may within six months following notification of such determination request the Secretary to reconsider such determination. A determination by the Secretary under this section shall not be subject to administrative or judicial review.

(g) Definition.

For the purposes of this section, a "capital expenditure" is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds $100,000, (2) changes the bed capacity of the facility with respect to which such expenditure is made, or (3) substantially changes the services of the facility with respect to which such expenditure is made. For purposes of clause (1) of the preceding sentence, the cost of the studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds $100,000.

(h) Applicability to Christian Science sanatoriums.

The provisions of this section shall not apply to Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(i) National advisory council; establishment or designation of existing council; functions; consultations with other appropriate national advisory councils; composition; compensation and travel expenses.

(1) The Secretary shall establish a national advisory council, or designate an appropriate existing national advisory council, to advise and assist him in the preparation of general regulations to carry out the purposes of this section and on policy matters arising in the administration of this section, including the coordination of activities under this section with those under other parts of this chapter or under other Federal or federally assisted health programs.

(2) The Secretary shall make appropriate provision for consultation between and coordination of the work of the advisory council established or designated under paragraph (1) and the Federal Hospital Council, the National Advisory Health Council, the Health Insurance Benefits Advisory Council, and other appropriate national advisory councils with respect to matters bearing on the purposes and administration of this section and the coordination of activities under this section with related Federal health programs.

(3) If an advisory council is established by the Secretary under paragraph (1), it shall be composed of members who are not otherwise in the regular full-time employ of the United States, and who shall be appointed by the Secretary without regard to the civil service laws from among leaders in the fields of the fundamental sciences, the medical sciences, and the organization, delivery, and financing of health care, and persons who are State or local officials or are active in community affairs or public or civic affairs or who are representative of minority groups. Members of such advisory council, while attending meetings of the council or otherwise serving on business of the council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the maximum rate specified at the time of such service for grade GS–18 in section 5332 of Title 5, including traveltime, and while away from their homes or regular places of business they may also be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of such Title 5 for persons in the Government service employed intermittently. (Aug. 14, 1935, ch. 531, title XI, § 1122, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 221(a), 86 Stat. 1386, and amended Dec. 31, 1973, Pub. L. 93–233, § 18(z), (z–1), 87 Stat. 973.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b), is classified to section 201 et seq. of this title.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (b), is classified principally to section 2661 et seq of this title.

Section 5703 of Title 5, referred to in subsec. (i)(3), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

AMENDMENTS

1973—Subsec. (d)(1). Pub. L. 93–233, § 18(z), inserted in last sentence "or a fixed fee or negotiated rate" following "per capita" wherever appearing.

Subsec. (d)(2). Pub. L. 93–233, § 18(z–1), substituted "exclude" for "include" where last appearing.

EFFECTIVE DATE

Section 221(b) of Pub. L. 92–603 provided that: The amendment made by subsection (a) [enacting this section] shall apply only with respect to a capital expenditure the obligation for which is incurred by or on behalf of a health care facility or health maintenance organization subsequent to whichever of the following is earlier: (A) December 31, 1972, or (B) with respect to any State or any part thereof specified by such State, the last day of the calendar quarter in which the State requests that the amendment made by subsection (a) of this section [enacting this section] apply in such State or such part thereof."

EXPENDITURES OR OBLIGATIONS OF HEALTH CARE FACILITIES PROVIDING HEALTH CARE SERVICES PRIOR TO DEC. 18, 1970; LIMITATIONS ON FEDERAL PARTICIPATION

Section 221(d) of Pub. L. 92–603 provided that: "In the case of a health care facility providing health care services as of December 18, 1970, which on such date is committed to a formal plan of expansion or replacement, the amendments made by the preceding provisions of this section [enacting this section and amending sections 705(a)(6), 706, 709(a), 1395x(v), 1396a(a)(13)(D), and 1396b(b) of this title] shall not apply with respect to such expenditures as may be made or obligations incurred for capital items included in such plan where preliminary expenditures toward the plan of expansion or replacement (including payments for studies, surveys, designs, plans, working drawings, specifications, and site acquisition, essential to the acquisition, improvement, expansion, or replacement of the health care facility or equipment concerned) of $100,000 or more, had been made during the three-year period ended December 17, 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m–2, 300n, 705, 706, 709, 1395x, 1395mm, 1396a, 1396b of this title.

§ 1320a–2. Qualifications for health care personnel.

(a) The Secretary, in carrying out his functions relating to the qualifications for health care personnel under subchapter XVIII of this chapter, shall develop (in consultation with appropriate professional health organizations and State health and licensure agencies) and conduct (in conjunction with State health and licensure agencies) until December 31, 1977, a program designed to determine the proficiency of individuals (who do not otherwise meet the formal educational, professional membership, or other specific criteria established for determining the qualifications of practical nurses, therapists, laboratory technicians, and technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists) to perform the duties and functions of practical nurses, therapists, laboratory technicians, technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists. Such program shall include (but not be limited to) the employment of procedures for the formal testing of the proficiency of individuals. In the conduct of such program, no individual who otherwise meets the proficiency requirements for any health care specialty shall be denied a satisfactory proficiency rating solely because of his failure to meet formal educational or professional membership requirements.

(b) If any individual has been determined, under the program established pursuant to subsection (a) of this section, to be qualified to perform the duties and functions of any health care specialty, no person or provider utilizing the services of such individual to perform such duties and functions shall be denied payment, under subchapter XIX of this chapter, for any health care services provided by such person on the grounds that such individual is not qualified to perform such duties and functions. (Aug. 14, 1935, ch. 531, title XI, § 1123, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 241, 86 Stat. 1418.)

§ 1320b. Repealed. Pub. L. 93–647, § 3(e)(1), Jan. 4, 1975, 88 Stat. 2349.

Section, act Aug. 14, 1935, ch. 531, title XI, § 1130, as added Pub. L. 92–512, title III, § 301(a), 86 Stat. 945, and amended July 9, 1973, Pub. L. 93–66, title II, § 221, 87 Stat. 159; Dec. 31, 1973, Pub. L. 93–233, § 18(j), 87 Stat. 970, set out limitations on funds for certain social services.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SOCIAL SERVICES REGULATIONS POSTPONED

Section 12 of Pub. L. 93–233, Dec. 31, 1973, 87 Stat. 969, as amended by Pub. L. 93–647, § 3(g), Jan. 4, 1975, 88 Stat. 2349, provided that:

"(a) Subject to subsection (b), no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare (hereinafter referred to as the 'Secretary') after January 1, 1973, shall be effective for any period which begins prior to October 1, 1975, if (and insofar as) such regulation or modification of a regulation pertains (directly or indirectly) to the provisions of law contained in section 3(a)(4)(A), 402(a)(19)(G), 403(a)(3)(A), 603(a)(1)(A), 1003(a)(3)(A), 1403(a)(3)(A), or 1603(a)(4)(A) of the Social Security (A), 803(a)(1)(A), 1203(a)(3)(A), 1353(a)(3)(A), or 1383(a)(4)(A) of this title].

"(b)(1) The provisions of subsection (a) shall not be applicable to any regulation relating to 'scope of programs', if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.0 of the regulations (relating to social services) proposed by the Secretary and published in the Federal Register on May 1, 1973. There shall be deleted from the first sentence of subsection (b) of such section 221.0 the phrase 'meets all the applicable requirements of this part and'.

"(2) The provisions of subsection (a) shall not be applicable to any regulation relating to 'limitations on total amount of Federal funds payable to States for services', if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.55 of the regulations so proposed and published on May 1, 1973. There shall be deleted from subsection (d)(1) of such section 221.55 the phrase '(as defined under day care services for children)'; and, in lieu of the sentence contained in subsection (d)(5) of such section 221.55, there shall be inserted the following: 'Services provided to a child who is under foster care in a foster family home (as defined in section 408 of the Social Security Act [section 608 of this title]) or in a childcare institution (as defiend in such section [section 608 of this title]), or while awaiting placement in such a home or institution, but only if such services are needed by such child because he is under foster care.'.

"(3) The provisions of subsection (a) shall not be applicable to any regulation relating to 'rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam', if such regulation is identical to the provisions of section 221.56 of the regulations so proposed and published on May 1, 1973.

"(4) The provisions of subsection (a) shall not be construed to preclude the Secretary from making any modification in any regulation (described in subsection (a)) if such modification is technically necessary to take account of the enactment of section 301 or 302 of the Social Security Amendments of 1972 [enacting subchapters XVI and VI of this chapter].

"(c) Notwithstanding the provisions of section 553(d) of title 5, United States Code, any regulation described in

subsection (b) may become effective upon the date of its publication in the Federal Register."

Similar provisions were contained in the following prior act: Pub. L. 93–66, title II, § 220, July 9, 1973, 87 Stat. 158.

MODIFICATION OF SOCIAL SERVICES REGULATIONS

Section 3(g) of Pub. L. 93–647 provided in part that: "Notwithstanding the provisions of section 12(a) of Public Law 93–233 [set out as a note under this section], the Secretary may make any modification in any regulation described in that section if the modification is necessary to implement the provisions of this part."

ADJUSTMENT OF ALLOTMENT TO STATE FOR FISCAL YEAR ENDING JUNE 30, 1973

Pub. L. 92–603, title IV, § 403, Oct. 30, 1972, 86 Stat. 1487, provided that:

"In the administration of section 1130 of the Social Security Act [this section], the allotment of each State (as determined under subsection (b) of such section) [subsec. (b) of this section] for the fiscal year ending June 30, 1973, shall (notwithstanding any provision of such section 1130) [this section] be adjusted so that the amount of such allotment for such year consists of the sum of the following:

"(1) the amount, not to exceed $50,000,000, payable to the State (as determined without regard to such section 1130) [this section] with respect to the total expenditures incurred by the State for services (of the type, and under the programs to which the allotment, as determined under such subsection (b) [subsec. (b) of this section], is applicable) for the calendar quarter commencing July 1, 1972, plus

"(2) an amount equal to three-fourths of the amount of the allotment of such State (as determined under such subsection (b) [subsec. (b) of this section], but without application of the provisions of this section): *Provided, however*, That no State shall receive less under this section than the amount to which it would have been entitled otherwise under section 1130 of the Social Security Act [this section]."

§ 1320b–1. Notification of social security claimant with respect to deferred vested benefits.

(a) Whenever—

(1) the Secretary makes a finding of fact and a decision as to—

(A) the entitlement of any individual to monthly benefits under section 402, 423, or 428 of this title,

(B) the entitlement of any individual to lump-sum death payment payable under section 402(i) of this title on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

(C) the entitlement under section 426 of this title of any individual to hospital insurance benefits under part A of subchapter XVIII of this chapter, or

(2) the Secretary is requested to do so—

(A) by any individual with respect to whom the Secretary holds information obtained under section 6057 of Title 26, or

(B) in the case of the death of the individual referred to in subparagraph (A), by the individual who would be entitled to payment under section 404(d) of this title,

he shall transmit to the individual referred to in paragraph (1) or the individual making the request under paragraph (2) any information, as reported by the employer, regarding any deferred vested benefit transmitted to the Secretary pursuant to such section 6057 with respect to the individual referred to in paragraph (1) or (2)(A) or the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

(b)(1) For purposes of section 401(g)(1) of this title, expenses incurred in the administration of subsection (a) of this section shall be deemed to be expenses incurred for the administration of subchapter II of this chapter.

(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a) of this section. (Aug. 14, 1935, ch. 531, title XI, § 1131, as added Sept. 2, 1974, Pub. L. 93–406, title II, § 1032, 88 Sta. 947.)

EFFECTIVE DATE

Section effective on Jan. 1, 1978, see section 1034 of Pub. L. 93–406, set out as a note under section 6057 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26, section 6103.

PART B.—PROFESSIONAL STANDARDS REVIEW [NEW]

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k–2, 1395x of this title.

§ 1320c. Congressional declaration of purpose.

In order to promote the effective, efficient, and economical delivery of health care services of proper quality for which payment may be made (in whole or in part) under this chapter and in recognition of the interests of patients, the public, practitioners, and providers in improved health care services, it is the purpose of this part to assure, through the application of suitable procedures of professional standards review, that the services for which payment may be made under this chapter will conform to appropriate professional standards for the provision of health care and that payment for such services will be made—

(1) only when, and to the extent, medically necessary, as determined in the exercise of reasonable limits of professional discretion; and

(2) in the case of services provided by a hospital or other health care facility on an inpatient basis, only when and for such period as such services cannot, consistent with professionally recognized health care standards, effectively be provided on an outpatient basis or more economically in an inpatient health care facility of a different type, as determined in the exercise of reasonable limits of professional discretion.

(Aug. 14, 1935, ch. 531, title XI, § 1151, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1429.)

§ 1320c–1. Professional Standards Review Organizations.

(a) Designation.

The Secretary shall (1) not later than January 1, 1974, establish throughout the United States appropriate areas with respect to which Professional Standards Review Organizations may be designated, and (2) at the earliest practicable date after designation of an area enter into an agreement with a

qualified organization whereby such an organization shall be conditionally designated as the Professional Standards Review Organization for such area. If, on the basis of its performance during such period of conditional designation, the Secretary determines that such organization is capable of fulfilling, in a satisfactory manner, the obligations and requirements for a Professional Standards Review Organization under this part, he shall enter into an agreement with such organization designating it as the Professional Standards Review Organization for such area.

(b) Qualified organizations eligible for designation.

For purposes of subsection (a) of this section, the term "qualified organization" means—

(1) when used in connection with any area—

(A) an organization (i) which is a nonprofit professional association (or a component organization thereof), (ii) which is composed of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area, (iii) the membership of which includes a substantial proportion of all such physicians in such area, (iv) which is organized in a manner which makes available professional competence to review health care services of the types and kinds with respect to which Professional Standards Review Organizations have review responsibilities under this part, (v) the membership of which is voluntary and open to all doctors of medicine or osteopathy licensed to engage in the practice of medicine or surgery in such area without requirement of membership in or payment of dues to any organized medical society or association, and (vi) which does not restrict the eligibility of any member for service as an officer of the Professional Standards Review Organization or eligibility for and assignment to duties of such Professional Standards Review Organization, or, subject to subsection (c)(i) of this section,

(B) such other public, nonprofit private, or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable; and

(2) an organization which the Secretary, on the basis of his examination and evaluation of a formal plan submitted to him by the association, agency, or organization (as well as on the basis of other relevant data and information), finds to be willing to perform and capable of performing, in an effective, timely, and objective manner and at reasonable cost, the duties, functions, and activities of a Professional Standards Review Organization required by or pursuant to this part.

(c) Order of eligibility; renewal of agreements.

(1) The Secretary shall not enter into any agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A) of this section prior to January 1, 1978, nor after such date, unless, in such area, there is no organization referred to in subsection (b)(1)(A) of this section which meets the conditions specified in subsection (b)(2) of this section.

(2) Whenever the Secretary shall have entered into an agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A) of this section, he shall not renew such agreements with such organization if he determines that—

(A) there is in such area an organization referred to in subsection (b)(1)(A) of this section which (i) has not been previously designated as a Professional Standards Review Organization, and (ii) is willing to enter into an agreement under this part under which such organization would be designated as the Professional Standards Review Organization for such area;

(B) such organization meets the conditions specified in subsection (b)(2) of this section; and

(C) the designation of such organization as the Professional Standards Review Organization for such area is anticipated to result in substantial improvement in the performance in such area of the duties and functions required of such organizations under this part.

(d) Agreement expiration; prior termination.

Any such agreement under this part with an organization (other than an agreement established pursuant to section 1320c–3 of this title) shall be for a term of 12 months; except that, prior to the expiration of such term such agreement may be terminated—

(1) by the organization at such time and upon such notice to the Secretary as may be prescribed in regulations (except that notice of more than 3 months may not be required); or

(2) by the Secretary at such time and upon such reasonable notice to the organization as may be prescribed in regulations, but only after the Secretary has determined (after providing such organization with an opportunity for a formal hearing on the matter) that such organization is not substantially complying with or effectively carrying out the provisions of such agreement.

(e) Waiver of those review, certification, and similar activities now covered by Professional Standards Review Organizations.

In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under or pusuant to any provision of this chapter (other than this part) where he finds, on the basis of substantial evidence of the effective performance of review and control activities by Professional Standards Review Organizations, that the review, certification, and similar activities otherwise so required are not needed for the provision of adequate review and control.

(f) Agreement notice; objection by doctors; poll.

(1) In the case of agreements entered into prior to January 1, 1978, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agree-

ment with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

(2) If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.

(g) Statewide Professional Standards Review Organization; criteria for designation; nonapplicability.

(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?". If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to December 31, 1975, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State. (Aug. 14, 1935, ch. 531, title XI, § 1152, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1430, and amended Dec. 31, 1975, Pub. L. 94–182, title I, §§ 105, 108(a), 89 Stat. 1052, 1053.)

AMENDMENTS

1975—Subsec. (c)(1). Pub. L. 94–182, § 108(a), substituted "January 1, 1978" for "January 1, 1976".

Subsec. (f)(1). Pub. L. 94–182, § 108(a), substituted "January 1, 1978" for "January 1, 1976".

Subsec. (g). Pub. L. 94–182, § 105, added subsec. (g).

NONAPPLICABILITY OF STARTUP DEADLINE TO DESIGNATED ORGANIZATIONS

Section 108(b) of Pub. L. 94–182 provided that:

"The amendments made by subsection (a) [amending subsecs. (c)(1) and (f)(1) of this section] shall not apply in any area designated in accordance with section 1152(a)(1) of the Social Security Act [subsec. (a)(1) of this section] where—

"(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or

"(2) the organization proposed to be designated by the Secretary under section 1152 of such Act [this section] has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof [subsec. (f)(2) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*–2, 1320c–16, 1320c–18 of this title.

§ 1320c–2. Review pending designation of Professional Standards Review Organization.

Pending the assumption by a Professional Standards Review Organization for any area, of full review responsibility, and pending a demonstration of capacity for improved review effort with respect to matters involving the provision of health care services in such area for which payment (in whole or in part) may be made, under this chapter, any review with respect to such services which has not been designated by the Secretary as the full responsibility of such organization, shall be reviewed in the manner otherwise provided for under law. (Aug. 14, 1935, ch. 531, title XI, § 1153, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1432.)

§ 1320c–3. Trial period for Professional Standards Review Organizations.

(a) The Secretary shall initially designate an organization as a Professional Standards Review Organization for any area on a conditional basis with a view to determining the capacity of such organization to perform the duties and functions imposed under this part on Professional Standards Review Organizations. Such designation may not be made prior to receipt from such organization and approval by the Secretary of a formal plan for the orderly assumption and implementation of the responsibilities of the Professional Standards Review Organization under this part.

(b) During any such trial period (which may not exceed 24 months), the Secretary may require a Professional Standards Review Organization to perform only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing. The number and type of such duties shall, during the trial period, be progressively increased as the organization becomes capable of added responsibility so that, by the end of such period, such organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided or ordered by physicians and other practitioners and institutional and other health care facilities, agencies, and organizations. Any of such duties and functions not performed by such organization during such period shall be performed in the manner and to the extent otherwise provided for under law.

(c) Any agreement under which any organization is conditionally designated as the Professional Standards Review Organization for any area may be terminated by such organization upon 90 days notice to the Secretary or by the Secretary upon 90 days notice to such organization. (Aug. 14, 1935, ch. 531,

title XI, § 1154, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1432.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c–1 of this title.

§ 1320c–4. Duties and functions of Professional Standards Review Organizations.

(a) Responsibility for review of professional activities; case criteria; patient profiles; physician review of hospital care; involvement of reviewing physicians.

(1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall (subject to the provisions of subsection (g) of this section) be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under this chapter for the purpose of determining whether—

(A) such services and items are or were medically necessary;

(B) the quality of such services meets professionally recognized standards of health care; and

(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided on an outpatient basis or more economically in an inpatient health care facility of a different type.

(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

(A) any elective admission to a hospital, or other health care facility, or

(B) any other health care service which will consist of extended or costly courses of treatment,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in clauses (A) and (C) of paragraph (1).

(3) Each Professional Standards Review Organization shall, in accordance with regulations of the Secretary, determine and publish, from time to time, the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order most effectively to carry out the purposes of this part, exercise the authority conferred upon it under paragraph (2).

(4) Each Professional Standards Review Organization shall be responsible for the arranging for the maintenance of and the regular review of profiles of care and services received and provided with respect to patients, utilizing to the greatest extent practicable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation consistent with the purposes of this part. Profiles shall also be regularly reviewed on an ongoing basis with respect to each health care practitioner and provider to determine whether the care and services ordered or rendered are consistent with the criteria specified in clauses (A), (B), and (C) of paragraph (1).

(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization and (except as may be otherwise provided under subsection (e)(1) of this section) such physicians ordinarily should not be responsible for, but may participate in the review of care and services provided in any hospital in which such physicians have active staff privileges.

(6) No physician shall be permitted to review—

(A) health care services provided to a patient if he was directly or indirectly involved in providing such services, or

(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, any financial interest in such institution, organization, or agency.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

(b) Utilization of practitioners and specialists; examination of records; inspection of facilities.

To the extent necessary or appropriate for the proper performance of its duties and functions, the Professional Standards Review Organization serving any area is authorized in accordance with regulations prescribed by the Secretary to—

(1) make arrangements to utilize the services of persons who are practitioners of or specialists in the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

(2) undertake such professional inquiry either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review under subsection (a)(1) of this section;

(3) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibilty for review under subsection (a)(1) of this section; and

(4) inspect the facilities in which care is rendered or services provided (which are located in such area) of any practitioner or provider.

(c) Utilization of services of unlicensed doctors of medicine or osteopathy.

No Professional Standards Review Organization shall utilize the services of any individual who is not a duly licensed doctor of medicine or osteopathy

to make final determinations in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine or osteopathy, or any act performed by any duly licensed doctor of medicine or osteopathy in the exercise of his profession.

(d) Familiarization of physicians with review functions of Professional Standards Review Organizations.

In order to familiarize physicians with the review functions and activities of Professional Standards Review Organizations and to promote acceptance of such functions and activities by physicians patients, and other persons, each Professional Standards Review Organization, in carrying out its review responsibilities, shall (to the maximum extent consistent with the effective and timely performance of its duties and functions)—

(1) encourage all physicians practicing their profession in the area served by such Organization to participate as reviewers in the review activities of such Organizations;

(2) provide rotating physician membership of review committees on an extensive and continuing basis;

(3) assure that membership on review committees have the broadest representation feasible in terms of the various types of practice in which physicians engage in the area served by such Organization; and

(4) utilize, whenever appropriate, medical periodicals and similar publications to publicize the functions and activities of Professional Standards Review Organizations.

(e) Review committees of hospitals or other operating health care facilities or organizations.

(1) Each Professional Standards Review Organization shall utilize the services of, and accept the findings of, the review committees of a hospital or other operating health care facility or organization located in the area served by such organization, but only when and only to the extent and only for such time that such committees in such hospital or other operating health care facility or organization have demonstrated to the satisfaction of such organization their capacity effectively and in timely fashion to review activities in such hospital or other operating health care facility or organization (including the medical necessity of admissions, types and extent of services ordered, and lengths of stay) so as to aid in accomplishing the purposes and responsibilities described in subsection (a)(1) of this section, except where the Secretary disapproves, for good cause, such acceptance.

(2) The Secretary may prescribe regulations to carry out the provisions of this subsection.

(f) Agreement requirements.

(1) An agreement entered into under this part between the Secretary and any organization under which such organization is designated as the Professional Standards Review Organization for any area shall provide that such organization will—

(A) perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part; and

(B) collect such data relevant to its functions and such information and keep and maintain such records in such form as the Secretary may require to carry out the purposes of this part and to permit access to and use of any such records as the Secretary may require for such purposes.

(2) Any such agreement with an organization under this part shall provide that the Secretary make payments to such organization equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organization in carrying out or preparing to carry out the duties and functions required by such agreement.

(g) Review of health care services limited to health care services provided by or in institutions unless otherwise requested.

Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request. (Aug. 14, 1935, ch. 531, title XI, § 1155, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1433.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c–5, 1320c–8 of this title.

§ 1320c–5. Norms of health care services.

(a) Development by Professional Standards Review Organizations.

Each Professional Standards Review Organization shall apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice in its regions (including typical lengths-of-stay for institutional care by age and diagnosis) as principal points of evaluation and review. The National Professional Standards Review Council and the Secretary shall provide such technical assistance to the organization as will be helpful in utilizing and applying such norms of care, diagnosis, and treatment. Where the actual norms of care, diagnosis, and treatment in a Professional Standards Review Organization area are significantly different from professionally developed regional norms of care, diagnosis, and treatment approved for comparable conditions, the Professional Standards Review Organization concerned shall be so informed, and in the event that appropriate consultation and discussion indicate reasonable basis for usage of other norms in the area concerned, the Professional Standards Review Organization may apply such norms in such area as are approved by the National Professional Standards Review Council.

(b) Requisite contents of norms.

Such norms with respect to treatment for particular illnesses or health conditions shall include (in accordance with regulations of the Secretary)—

(1) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care are considered

within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care;

(2) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

(c) Data on regional norms; preparation, distribution, review, and revision; utilization of norms.

(1) The National Professional Standards Review Council shall provide for the preparation and distribution, to each Professional Standards Review Organization and to each other agency or person performing review functions with respect to the provision of health care services under this chapter, of appropriate materials indicating the regional norms to be utilized pursuant to this part. Such data concerning norms shall be reviewed and revised from time to time. The approval of the National Professional Standards Review Council of norms of care, diagnosis, and treatment shall be based on its analysis of appropriate and adequate data.

(2) Each review organization, agency, or person referred to in paragraph (1) shall utilize the norms developed under this section as a principal point of evaluation and review for determining, with respect to any health care services which have been or are proposed to be provided, whether such care and services are consistent with the criteria specified in section 1320c–4(a)(1) of this title.

(d) Certification for further inpatient care.

(1) Each Professional Standards Review Organization shall—

(A) in accordance with regulations of the Secretary, specify the appropriate points in time after the admission of a patient for inpatient care in a health care institution, at which the physician attending such patient shall execute a certification stating that further inpatient care in such institution will be medically necessary effectively to meet the health care needs of such patient; and

(B) require that there is included in any such certification with respect to any patient such information as may be necessary to enable such organization properly to evaluate the medical necessity of the further institutional health care recommended by the physician executing such certification.

(2) The points in time at which any such certification will be required (usually, not later than the 50th percentile of lengths-of-stay for patients in similar age groups with similar diagnoses) shall be consistent with and based on professionally developed norms of care and treatment and data developed with respect to length of stay in health care institutions of patients having various illnesses, injuries, or health conditions, and requiring various types of health care services or procedures. (Aug. 14, 1935, ch. 531, title XI, § 1156, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1435.)

§ 1320c–6. Submission of reports by Professional Standards Review Organizations.

If, in discharging its duties and functions under this part, any Professional Standards Review Organization determines that any health care practitioner or any hospital, or other health care facility, agency, or organization has violated any of the obligations imposed by section 1320c–9 of this title, such organization shall report the matter to the Statewide Professional Standards Review Council for the State in which such organization is located together with the recommendations of such Organization as to the action which should be taken with respect to the matter. Any Statewide Professional Standards Review Council receiving any such report and recommendation shall review the same and promptly transmit such report and recommendation to the Secretary together with any additional comments or recommendations thereon as it deems appropriate. The Secretary may utilize a Professional Standards Review Organization, in lieu of a program review team as specified in sections 1395y and 1395cc of this title, for purposes of subparagraph (C) of section 1395y(d)(1) of this title and subparagraph (F) of section 1395cc(b)(2) of this title. (Aug. 14, 1935, ch. 531, title XI, § 1157, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c–9 of this title.

§ 1320c–7. Review approval as condition of payment of claims.

(a) Except as provided for in section 1320c–8 of this title, no Federal funds appropriated under any subchapter of this chapter (other than subchapter V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such subchapter or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

(1) the provision of such services or items is subject to review under this part by any Professional Standards Review Organization, or other agency; and

(2) such organization or other agency has, in the proper exercise of its duties and functions under or consistent with the purposes of this part, disapproved of the services or items giving rise to such claim, and has notified the practitioner or provider who provided or proposed to provide such services or items and the individual who would receive or was proposed to receive such services or items of its disapproval of the provision of such services or items.

(b) Whenever any Professional Standards Review Organization, in the discharge of its duties and functions as specified by or pursuant to this part, disapproves of any health care services or items furnished or to be furnished by any practitioner or provider, such organization shall, after notifying the practitioner, provider, or other organization or agency of its disapproval in accordance with subsection (a) of this section, promptly notify the agency or organization having responsibility for acting upon claims for payment for or on account of such services or items. (Aug. 14, 1935, ch. 531, title XI, § 1158, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1437.)

§ 1320c–8. Hearing and review by Secretary.

(a) Any beneficiary or recipient who is entitled to benefits under this chapter (other than subchapter V) or a provider or practitioner who is dissatisfied with a determination with respect to a claim made by a Professional Standards Review Organization in carrying out its responsibilities for the review of professional activities in accordance with paragraphs (1) and (2) of section 1320c–4(a) of this title shall, after being notified of such determination, be entitled to a reconsideration thereof by the Professional Standards Review Organization and, where the Professional Standards Review Organization reaffirms such determination in a State which has established a Statewide Professional Standards Review Council, and where the matter in controversy is $100 or more, such determination shall be reviewed by professional members of such Council and, if the Council so determined, revised.

(b) Where the determination of the Statewide Professional Standards Review Council is adverse to the beneficiary or recipient (or, in the absence of such Council in a State and where the matter in controversy is $100 or more), such beneficiary or recipient shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and, where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title. The Secretary will render a decision only after appropriate professional consultation on the matter.

(c) Any review or appeals provided under this section shall be in lieu of any review, hearing, or appeal under this chapter with respect to the same issue. (Aug. 14, 1935, ch. 531, title XI, § 1159, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F (b), 86 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c–7 of this title.

§ 1320c–9. Obligations of health care practitioners and providers of health care services.

(a) Enumeration of obligations.

(1) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this chapter, to assure that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this chapter—

(A) will be provided only when, and to the extent, medically necessary; and

(B) will be of a quality which meets professionally recognized standards of health care; and

(C) will be supported by evidence of such medical necessity and quality in such form and fashion and at such time as may reasonably be required by the Professional Standards Review Organization in the exercise of its duties and responsibilities:

and it shall be the obligation of any health care practitioner in ordering, authorizing, directing, or arranging for the provision by any other person (including a hospital or other health care facility, organization, or agency), of health care services for any patient of such practitioner, to exercise his professional responsibility with a view to assuring (to the extent of his influence or control over such patient, such person, or the provision of such services) that such services or items will be provided—

(D) only when, and to the extent, medically necessary; and

(E) will be of a quality which meets professionally recognized standards of health care.

(2) Each health care practitioner, and each hospital or other provider of health care services, shall have an obligation, within reasonable limits of professional discretion, not to take any action, in the exercise of his profession (in the case of any health care practitioner), or in the conduct of its business (in the case of any hospital or other such provider), which would authorize any individual to be admitted as an inpatient in or to continue as an inpatient in any hospital or other health care facility unless—

(A) inpatient care is determined by such practitioner and by such hospital or other provider, consistent with professionally recognized health care standards, to be medically necessary for the proper care of such individual; and

(B) (i) the inpatient care required by such individual cannot, consistent with such standards, be provided more economically in a health care facility of a different type; or

(ii) (in the case of a patient who requires care which can, consistent with such standards, be provided more economically in a health care facility of a different type) there is, in the area in which such individual is located, no such facility or no such facility which is available to provide care to such individual at the time when care is needed by him.

(b) Failure to comply with obligations; gross and flagrant violations; exclusion of practitioner or provider from eligibility; sanctions and penalties, hearing and review.

(1) If after reasonable notice and opportunity for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendations to the Secretary pursuant to section 1320c–6 of this title (which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such practitioner or provider, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this chapter, has—

(A) by failing, in a substantial number of cases, substantially to comply with any obligation imposed on him under subsection (a) of this section, or

(B) by grossly and flagrantly violating any such obligation in one or more instances.

demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction provided under

law) may exclude (permanently for such period as the Secretary may prescribe) such practitioner or provider from eligibility to provide such services on a reimbursable basis.

(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in subchapter XVIII of this chapter with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or provide to provide such health care services on a reimbursable basis) such practitioner or provider pay to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or provider of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided, or (if less) $5,000. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the person from whom such amount is claimed.

(4) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(c) Duty of Review Organizations and Statewide Review Councils to assure compliance with obligations.

It shall be the duty of each Professional Standards Review Organization and each Statewide Professional Standards Review Council to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or provider (referred to in subsection (a) of this section) providing health care services in such area shall comply with all obligations imposed on him under subsection (a) of this section. (Aug. 14, 1935, ch. 531, title XI, § 1160, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1438.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c–6, 1320c–10 of this title.

§ 1320c–10. Notice to practitioner or provider.

Whenever any Professional Standards Review Organization takes any action or makes any determination—

(a) which denies any request, by a health care practitioner or other provider of health care services, for approval of a health care service or item proposed to be ordered or provided by such practitioner or provider; or

(b) that any such practitioner or provider has violated any obligation imposed on such practitioner or provider under section 1320c–9 of this title,

such organization shall, immediately after taking such action or making such determination, give notice to such practitioner or provider of such determination and the basis therefor, and shall provide him with appropriate opportunity for discussion and review of the matter. (Aug. 14, 1935, ch. 531, title XI, § 1161, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1440.)

§ 1320c–11. Statewide Professional Standards Review Councils.

(a) Establishment.

In any State in which there are located three or more Professional Standards Review Organizations, the Secretary shall establish a Statewide Professional Standards Review Council.

(b) Membership.

The membership of any such Council for any State shall be appointed by the Secretary and shall consist of—

(1) one representative from and designated by each Professional Standards Review Organization in the State;

(2) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

(3) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

(c) Duties.

It shall be the duty and function of the Statewide Professional Standards Review Council for any State, in accordance with regulations of the Secretary, (1) to coordinate the activities of, and disseminate information and data among the various Professional Standards Review Organizations within such State including assisting the Secretary in development of uniform data gathering procedures and operating procedures applicable to the several areas in a State (including, where appropriate, common data processing operations serving several or all areas) to assure efficient operation and objective evaluation of comparative performance of the several areas and, (2) to assist the Secretary in evaluating the per-

formance of each Professional Standards Review Organization, and (3) where the Secretary finds it necessary to replace a Professional Standards Review Organization, to assist him in developing and arranging for a qualified replacement Professional Standards Review Organization.

(d) Payments.

The Secretary is authorized to enter into an agreement with any such Council under which the Secretary shall make payments to such Council equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such Council in carrying out the duties and functions provided in this section.

(e) Advisory groups.

(1) The Statewide Professional Standards Review Council for any State (or in a State which does not have such Council, the Professional Standards Review Organizations in such State which have agreements with the Secretary) shall be advised and assisted in carrying out its functions by an advisory group (of not less than seven nor more than eleven members) which shall be made up of representatives of health care practitioners (other than physicians) and hospitals and other health care facilities which provide within the State health care services for which payment (in whole or in part) may be made under any program established by or pursuant to this chapter.

(2) The Secretary shall by regulations provide the manner in which members of such advisory group shall be selected by the Statewide Professional Standards Review Council (or Professional Standards Review Organizations in States without such Councils).

(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such group in carrying out its duties and functions under this subsection shall be considered to be expenses necessarily incurred by the Statewide Professional Standards Review Council served by such group. (Aug. 14, 1935, ch. 531, title XI, § 1162, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1440.)

§ 1320c–12. National Professional Standards Review Council.

(a) Establishment; membership.

(1) There shall be established a National Professional Standards Review Council (hereinafter in this section referred to as the "Council") which shall consist of eleven physicians, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service.

(2) Members of the Council shall be appointed for a term of three years and shall be eligible for reappointment.

(3) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

(b) Qualifications for membership.

Members of the Council shall consist of physicians of recognized standing and distinction in the appraisal of medical practice. A majority of such members shall be physicians who have been recommended by the Secretary to serve on the Council by national organizations recognized by the Secretary as representing practicing physicians. The membership of the Council shall include physicians who have been recommended for membership on the Council by consumer groups and other health care interests.

(c) Consultants.

The Council is authorized to utilize, and the Secretary shall make available, or arrange for, such technical and professional consultative assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by, for, or otherwise available to, the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

(d) Compensation of members.

Members of the Council, while serving on business of the Council, shall be entitled to receive compensation at a rate fixed by the Secretary (but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of Title 5, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(e) Duties.

It shall be the duty of the Council to—

(1) advise the Secretary in the administration of this part;

(2) provide for the development and distribution, among Statewide Professional Standards Review Councils and Professional Standards Review Organizations of information and data which will assist such review councils and organizations in carrying out their duties and functions;

(3) review the operations of Statewide Professional Standards Review Councils and Professional Standards Review Organizations with a view to determining the effectiveness and comparative performance of such review councils and organizations in carrying out the purposes of this part; and

(4) make or arrange for the making of studies and investigations with a view to developing and recommending to the Secretary and to the Congress measures designed more effectively to accomplish the purposes and objectives of this part.

(f) Reports.

The National Professional Standards Review Council shall from time to time, but not less often than annually, submit to the Secretary and to the Congress a report on its activities and shall include in such report the findings of its studies and investigations together with any recommendations it may have with respect to the more effective accomplishment of the purposes and objectives of this part. Such report shall also contain comparative data indicating the results of review activities, conducted pursuant to this part, in each State and in each of

the various areas thereof. (Aug. 14, 1935, ch. 531, title XI, § 1163, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1441.)

§ 1320c–13. Professional standards review requirements applicable to certain State programs.

(a) In addition to the requirements imposed by law as a condition of approval of a State plan approved under any subchapter of this chapter under which health care services are paid for in whole or part, with Federal funds, there is hereby imposed the requirement that provisions of this part shall apply to the operation of such plan or program.

(b) The requirement imposed by subsection (a) of this section with respect to such State plans approved under this chapter shall apply—

(1) in the case of any such plan where legislative action by the State legislature is not necessary to meet such requirement, on and after January 1, 1974; and

(2) in the case of any such plan where legislative action by the State legislature is necessary to meet such requirement, whichever of the following is earlier—

(A) on and after July 1, 1974, or

(B) on and after the first day of the calendar month which first commences more than ninety days after the close of the first regular session of the legislature of such State which begins after December 31, 1973.

(Aug. 14, 1935, ch. 531, title XI, § 1164, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1442.)

§ 1320c–14. Correlation of functions between Professional Standards Review Organizations and administrative instrumentalities.

The Secretary shall by regulations provide for such correlation of activities, such interchange of data and information, and such other cooperation consistent with economical, efficient, coordinated, and comprehensive implementation of this part (including, but not limited to, usage of existing mechanical and other data-gathering capacity) between and among—

(a) (1) agencies and organizations which are parties to agreements entered into pursuant to section 1395h of this title, (2) carriers which are parties to contracts entered into pursuant to section 1395u of this title, and (3) any other public or private agency (other than a Professional Standards Review Organization) having review or control functions, or proved relevant data-gathering procedures and experience, and

(b) Professional Standards Review Organizations, as may be necessary or appropriate for the effective administration of subchapter XVIII of this chapter, or State plans approved under this chapter.

(Aug. 14, 1935, ch. 531, title XI, § 1165, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1443.)

§ 1320c–15. Disclosure of information prohibited.

(a) Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, shall be held in confidence and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care.

(b) It shall be unlawful for any person to disclose any such information other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution. (Aug. 14, 1935, ch. 531, title XI, § 1166, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1443.)

§ 1320c–16. Limitation of liability.

(a) Persons providing information to Professional Standards Review Organizations.

Notwithstanding any other provision of law, no person providing information to any Professional Standards Review Organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) unless—

(1) such information is unrelated to the performance of the duties and functions of such Organization, or

(2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

(b) Members and employees of Professional Standards Review Organizations.

(1) No individual who, as a member or employee of any Professional Standards Review Organization or who furnishes professional counsel or services to such organization, shall be held by reason of the performance by him of any duty, function, or activity authorized or required of Professional Standards Review Organizations under this part, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

(2) The provisions of paragraph (1) shall not apply with respect to any action taken by any individual if such individual, in taking such action, was motivated by malice toward any person affected by such action.

(c) Health care practitioners and providers.

No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by a Professional Standards Review Organization (which has been designated in accordance with section 1320c–1(b)(1)(A) of this title) operating in the area where such doctor of medicine or osteopathy or provider took such action but only if—

(1) he takes such action (in the case of a health care practitioner) in the exercise of his profession as a doctor of medicine or osteopathy (or in the case of a provider of health care services) in the exercise of his functions as a provider of health care services, and

(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

(Aug. 14, 1935, ch. 531, title XI, § 1167, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1443.)

§ 1320c–17. Authorization for use of funds to administer professional review program; transfer of moneys between funds.

Expenses incurred in the administration of this part shall be payable from—

(a) funds in the Federal Hospital Insurance Trust Fund;

(b) funds in the Federal Supplementary Medical Insurance Trust Fund; and

(c) funds appropriated to carry out the health care provisions of the several subchapters of this chapter;

in such amounts from each of the sources of funds (referred to in subsections (a), (b), and (c) of this section) as the Secretary shall deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs. The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses. (Aug. 14, 1935, ch. 531, title XI, § 1168, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1444, and amended Dec. 31, 1975, Pub. L. 94–182, title I, § 112(c), 89 Stat. 1055.)

AMENDMENTS

1975—Pub. L. 94–182 added provisions authorizing Secretary to transfer moneys from funds specified in cls. (a), (b), or (c) in appropriate circumstances.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–182 effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after Dec. 31, 1975, see section 112(d) of Pub. L. 94–182, set out as a note under section 1395x of this title.

§ 1320c–18. Technical assistance to organizations desiring to be designated as Professional Standards Review Organizations.

The Secretary is authorized to provide all necessary technical and other assistance (including the preparation of prototype plans of organization and operation) to organizations described in section 1320c–1(b)(1) of this title which—

(a) express a desire to be designated as a Professional Standards Review Organization; and

(b) the Secretary determines have a potential for meeting the requirements of a Professional Standards Review Organization;

to assist such organizations in developing a proper plan to be submitted to the Secretary and otherwise in preparing to meet the requirements of this part for designation as a Professional Standards Review Organization. (Aug. 14, 1935, ch. 531, title XI, § 1169, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1444.)

§ 1320c–19. Exemptions of Christian Science sanatoriums.

The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts. (Aug. 14, 1935, ch. 531, title XI, § 1170, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249F(b), 86 Stat. 1445.)

SUBCHAPTER XIV.—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

REPEAL OF SUBCHAPTER XIV OF THIS CHAPTER EFFECTIVE JANUARY 1, 1974; INAPPLICABILITY OF REPEAL TO PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this subchapter is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title; title 7 section 2012.

§ 1351. Appropriations.

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 1352. State plans for aid to the permanently and totally disabled.

(a) A State plan for aid to the permanently and totally disabled must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately

upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title, aid to families with dependent children under the State plan approved under section 602 of this title, or aid to the blind under the State plan approved under section 1202 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of such income; except that, in making such determination, (A) the State agency may disregard not more than $7.50 of any income, (B) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (12) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

* * * * *

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter. (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 405(c), 406(c), 407(c), 410(c), 413(c), 86 Stat. 1488, 1489, 1491, 1492.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–603, § 410(c), added "except to the extent permitted by the Secretary with respect to services" preceding "provide".

Subsec. (a)(4). Pub. L. 92–603, § 407(c), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(9). Pub. L. 92–603, § 413(c), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of aid to the permanently and totally disabled.

Subsec. (a)(12). Pub. L. 92–603, § 405(c), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92–603, § 406(c), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1353, 1354, 1355, 1382a of this title.

§ 1353. Payments to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

* * * * *

(3) in the case of any State whose State plan approved under section 1352 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures are for—

* * * * *

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

* * * * *

The service referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

* * * * *

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit agencies);

* * * * *

(As amended Oct. 20, 1972, Pub. L. 92–512, title III, § 301 (b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93–647, §§ 3(e)(2), 5(d), 88 Stat. 2349, 2350.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3)(D), (E), which was classified to section 31 et seq. of title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of title 29.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iv). Pub. L. 93–647, § 5(d), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92–512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(E). Pub. L. 92–512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93–647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93–647, set out as a note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93–647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of text prec. par. (1) of subsec. (a) and subsec. (a)(3)(E) of this section by Pub. L. 92–512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92–512, set out as a note under section 1320b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1318, 1319, 1397a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3–217 of the District of Columbia Code.

§ 1354. Operation of State plans.

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 1355. Definitions.

For the purposes of this subchapter, the term "aid to the permanently and totally disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an instituton for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1352 of this title includes provision for—

* * * * *

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not

include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan. (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 408(c), 409(c), 86 Stat. 1490, 1491.)

REPEAL OF SECTION EFFECTIVE JANUARY 1, 1974

Pub. L. 92–603, title III, § 303 (a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Pub. L. 92–603 authorized the State, at its option, to include within the term "aid to the permanently and totally disabled" provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

SUBCHAPTER XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 401, 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1382, 1382c, 1395v, 1395z, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 1397f of this title; title 7 sections 1431, 2012; title 29 section 981.

§ 1381. Statement of purpose; authorization of appropriations.

For the purpose of establishing a national program to provide supplemental security income to individuals who have attained age 65 or are blind or disabled, there are authorized to be appropriated sums sufficient to carry out this subchapter. (Aug. 14, 1935, ch. 531, title XVI, § 1601, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1465.)

CODIFICATION

A prior section 1381, act Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 197, authorized appropriations for grants to States for aid to the aged, blind, or disabled, and for medical assistance for the aged.

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION IN EXPERIMENTAL, PILOT, OR DEMONSTRATION PROJECTS APPROVED BEFORE OCT. 1973, FOR PERIOD ON-AND-AFTER DEC. 31, 1973, WITHOUT DENIAL OR REDUCTION ON ACCOUNT OF SUBCHAPTER XVI PROVISIONS; WAIVER OF SUBCHAPTER XVI RESTRICTIONS FOR INDIVIDUALS; FEDERAL PAYMENTS OF NON-FEDERAL SHARE AS SUPPLEMENTARY PAYMENTS

Subchapter provisions without effect on Federal Financial Participation in Experimental, Pilot or Demonstration Projects approved before Oct. 1, 1973, for period on-and-after Dec. 31, 1973, see section 11 of Pub. L. 92–233, Dec. 31, 1973, 87 Stat. 958, set out as a note under section 1315 of this title.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1601 of the Social Security Act [this section] by Pub. L. 92–603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1601 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92–603 continues to apply as follows:

§ 1381. Authorization of appropriations

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made are available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged. (Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 197.)

PAYMENTS UNDER CHAPTER PROVISIONS IN EFFECT BEFORE JAN. 1, 1974, FOR: ACTIVITIES CARRIED OUT THROUGH DEC. 31, 1973, UNDER STATE PLANS APPROVED UNDER SUBCHAPTER I, X, XIV, OR XVI PROVISIONS; AND FOR ADMINISTRATIVE ACTIVITIES AFTER JAN. 1, 1974, CLOSING OUT SUCH ACTIVITIES

Pub. L. 93–233, § 19(b), Dec. 31, 1973, 87 Stat. 974, provided that: "Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 [enacting this subchapter], the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act [this chapter] as in effect prior to January 1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title [subchapter] I, X, XIV, or XVI, of such Act [this chapter], and (2) administrative activities carried out after December 31, 1973, which such Secretary determines are necessary to bring to a close activities carried out under such State plans."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 1381a. Basic entitlement to benefits.

Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of this subchapter, be paid benefits by the Secretary of Health, Education, and Welfare. (Aug. 14, 1935, ch. 531, title XVI, § 1602, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1465.)

CODIFICATION

A prior section 1602 of act Aug. 14, 1935, ch. 531, title XVI, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88–650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89–97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917, formerly classi-

fied to section 1382 of this title, set forth the required contents of state plans for aid to the aged, blind, or disabled, and for medical assistance for the aged.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

PART A.—DETERMINATION OF BENEFITS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1381a of this title.

§ 1382. Eligibility for benefits.

(a) Definition of eligible individual.

(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than $1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1382b(a) of this title, are not more than (i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living, $1,500,

shall be an eligible individual for purposes of this subchapter.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than $2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1382b(a) of this title, are not more than $2,250,

shall be an eligible individual for purposes of this subchapter.

(b) Amount of benefits.

(1) The benefit under this subchapter for an individual who does not have an eligible spouse shall be payable at the rate of $1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual.

(2) The benefit under this subchapter for an individual who has an eligible spouse shall be payable at the rate of $2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual and spouse.

(c) Period for determination of benefits; redetermination of eligibility and amount of benefits; effective date of application.

(1) An individual's eligibility for benefits under this subchapter and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

(d) Limitation on amount of gross income earned; definition of gross income.

The Secretary may prescribe the circumstances under which, consistently with the purposes of this subchapter, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this subchapter. For purposes of this subsection, the term "gross income" has the same meaning as when used in chapter 1 of Title 26, Internal Revenue Code of 1954.

(e) Limitation on eligibility of certain individuals.

(1)(A) Except as provided in subparagraph (B), no person shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX of this chapter, the benefit under this subchapter for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who does not have an eligible spouse;

(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b)(1) of this section and the rate of $300 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(2) No person shall be an eligible individual or eligible spouse for purposes of this subchapter if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1382a(a)(2)(B)

of this title, such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1382c(a)(3) of this title) shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this subchapter and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this subchapter. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

(f) Individuals outside the United States; determination of status.

Notwithstanding any other provision of this subchapter, no individual shall be considered an eligible individual for purposes of this subchapter for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this subchapter with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

(g) Individuals deemed to meet resources test.

In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter I, X, XIV, or XVI of this chapter,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in subsections (a)(1)(B) and (a)(2)(B) of this section during any period that the resources of such individual or individuals and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

(h) Individuals deemed to meet income test.

In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter X or XVI of this chapter,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1382a of this title without application of this subsection. (Aug. 14, 1935, ch. 531, title XVI, § 1611, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1466, and amended July 9, 1973, Pub. L. 93–66, title II, § 210(a), (b), 87 Stat. 154; Dec. 31, 1973, Pub. L. 93–233, §§ 4(b)(1), (2), 18(d), (e), 87 Stat. 953, 968; Aug. 7, 1974, Pub. L. 93–368, § 6(a), 88 Stat. 421.)

CODIFICATION

A prior section 1382, act Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88–650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89–97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492, set forth the required contents of state plans for aid to the aged, blind, or disabled, and for medical assistance for the aged.

AMENDMENTS

1974—Pub. L. 93–368 inserted "(or, if greater, the amount determined under section 1382f of this title)" immediately after "$1,752" in subsecs. (a)(1)(A) and (b)(1) and "$2,628" in subsecs. (a)(2)(A) and (b)(2).

1973—Subsec. (a)(1)(A). Pub. L. 93–233, § 4(b)(1), substituted "$1,752" for "$1,680".

Pub. L. 93–66, § 210(a), substituted "$1,680" for "$1,560".

Subsec. (a)(2)(A). Pub. L. 93–233, § 4(b)(2), substituted "$2,628" for "$2,520".

Pub. L. 93–66, § 210(b), substituted "$2,520" for "$2,340".

Subsec. (b)(1). Pub. L. 93–233, § 4(b)(1), substituted "$1,752" for "$1,680".

Pub. L. 93–66, § 210(a), substituted "$1,680" for "$1,560".

Subsec. (b)(2). Pub. L. 93–233, § 4(b)(2), substituted "$2,628" for "$2,520".

Pub. L. 93–66, § 210(b), substituted "$2,520" for "$2,340".

Subsec. (g). Pub. L. 93–233, § 18(d), incorporated existing provisions in text designated as cl. (1), added cls. (2) and (3), and substituted final December "1973" for "1972".

Subsec. (h). Pub. L. 93–233, § 18(e), incorporated existing text in provisions designated as cls. (1) and (2), added cls. (3) and (4), redesignated former cls. (1) and (2) as items (A) and (B), and in item (A) inserted phrase "under which he or they received such aid or assistance for December 1973"

EFFECTIVE DATE OF 1973 AMENDMENTS

Section 4(b) of Pub. L. 93–233 provided that amendment of subsecs. (a)(1)(A) and (b)(1) by section 4(b)(1), of subsecs. (a)(2)(A) and (b)(2) by section 4(b)(2), and of provisions set out as a note hereunder by section 4(b)(3) of Pub. L. 93–233, shall be effective with respect to payments for months after June 1974.

Section 210(c) of Pub. L. 93–66, as amended Pub. L. 93–233, § 4(a)(1), Dec. 31, 1973, 87 Stat. 953 provided "The amendments [of subsecs. (a)(1)(A), (2)(A) and (b)(1), of this section] made by this section shall apply with respect to payments for months after December 1973."

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; SUPPLEMENTAL SECURITY INCOME BENEFITS FOR ESSENTIAL PERSONS; DEFINITIONS OF QUALIFIED INDIVIDUAL AND ESSENTIAL PERSON

Section 211 of Pub. L. 93–66, as amended Pub. L. 93–233, § 4(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 953, provided that:

"(a)(1) In determining (for purposes of title XVI of the Social Security Act [this subchapter], as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

"(A) the dollar amounts specified in subsection (a)(1)(A) and (2)(A), and subsection b(1) and (2), of section 1611 of such Act [this section], shall each be increased by $840 for each such essential person, and

"(B) the income and resources of such individual shall (for purposes of such title XVI [this subchapter]) be deemed to include the income and resourses of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

"(C) does not but would (except for the provisions of subparagraph (B)) meet—

"(i) the criteria established with respect to income in section 1611(a) of such Act [subsec. (a) of this section], or

"(ii) the criteria established with respect to resources by such section 1611(a) [subsec. (a) of this section] (or, if applicable, by section 1611(g) of such Act [subsec. (g) of this section]).

"(2) The provisions of section 1611(g) of the Social Security Act [subsec. (g) of this section] (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

"(b) For purposes of this section, an individual shall be a 'qualified individual' only if—

"(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act [this chapter], and

"(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

"(A) was living in the home of such individual, and

"(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

"(c) The term 'essential person', when used in connection with any qualified individual, means a person who—

"(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

"(2) lives in the home of such individual,

"(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] (as in effect after December 1973), and

"(4) is not the eligible spouse (as that term is used in such title XVI [this subchapter]) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person."

MANDATORY MINIMUM STATE SUPPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM; DECEMBER 1973 INCOME; TITLE XVI BENEFIT PLUS OTHER INCOME; REDUCTION OF AMOUNT; ADMINISTRATION AGREEMENT; PAYMENTS TO SECRETARY; STATE CONSTITUTIONAL RESTRICTION

Section 212 of Pub. L. 93–66, as amended Pub. L. 93–233, § 10, Dec. 31, 1973, 87 Stat. 957; Pub. L. 93–335, § 2(a), July 8, 1974, 88 Stat. 291, provided that:

"(a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to be eligible for payments pursuant to title XIX [subchapter XIX of this chapter], with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

"(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

"(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972 [section 1382c(a) of this title]), and

"(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title [subchapter] I, X, XIV, or XVI, of the Social Security Act [this chapter]) shall be entitled to receive, from the State, the supplementary payment described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

"(C) the month in which such individual dies, or

"(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A); except tnat no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act [this chapter] by reason of the provisions of section 1611(e)(1)(A), (2), or (3) [subsec. (e)(1)(A), (2), or (3) of this section], 1611(f) [subsec. (f) of this section], or 1615(c) of such Act [section 1382d(c) of this title].

"(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection shall (except as provided in subparagraphs (D) and (E) be an amount

equal to (i) the amount by which such individual's 'December 1974 income' (as determined under subparagraph (B)) exceeds the amount of such individual's 'title XVI benefit plus other income' (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

"(B) For purposes of subparagraph (A), an individual's 'December 1973 income' means an amount equal to the aggregate of—

"(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title [subchapter] I, X, XIV, or XVI, of the Social Security Act [this chapter]) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92-603 [set out as a note under section 1382e of this title], if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of this title], and (II) the level of which has been found by the Secretary pursuant to section 8 of Public Law 93-233 [set out as notes under section 1382e of this title and sections 612c, 1431 and 2012 of Title 7, Agriculture] to have been specifically increased so as to include the bonus value of food stamps, and

"(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

"(C) For purposes of subparagraph (A), the amount of an individual's 'title XVI benefit plus other income' for any month means an amount equal to the aggregate of—

"(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act [this subchapter], and

"(ii) the amount of any income of such individual for such month (other than income in the form of a benefit described in clause (i)).

"(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

"(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

"(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such month and for each month thereafter the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title [subchapter] IV of the Social Security Act [this chapter], such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

"(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title [subchapter] IV of the Social Security Act, [this chapter], and had had no income for such month other than that received as aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act.

"(b)(1) Any State having an agreement with the Secretary under subsection (a) may enter into an administration agreement with the Secretary whereby the Secretary will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

"(2) Any such administration agreement between the Secretary and a State entered into under this subsection shall provide that the State will (A) certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act [this chapter], together with the amount of such assistance payable to each such individual and the amount of such individual's December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Secretary with such additional data at such times as the Secretary may reasonably require in order properly, economically, and efficiently to carry out such administration agreement.

"(3) Any State which has entered into an administration agreement under this subsection shall, at such times and in such installments as may be agreed upon between the Secretary and the State, pay to the Secretary an amount equal to the expenditures made by the Secretary as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a).

"(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act [section 1382a(b)(6) of this title] (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act [this subchapter] (as so in effect).

"(2) Supplementary payments made by the Secretary (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title], be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972 [section 1382e of this title]); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Secretary, the provisions of subsection (b) of such section 401 [set out as a note under section 1382e of this title].

"(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Secretary under section 1616 of the Social Security Act [section 1382e of this title] under which—

"(1) individuals, other than individuals described in subsection (a)(2) (A) and (B), are entitled to receive supplementary payments, and

"(2) supplementary benefits are payable, to individuals described in subsection (a)(2) (A) and (B) at a level and under terms and conditions which meet

the minimum requirements specified in subsection (a).

"(e) Except as the Secretary may by regulations otherwise provide, the provisions of title XVI of the Social Security Act [this subchapter] (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title [section 1383 et seq. of this title], relating to the terms and conditions under which the benefits authorized by such title [this subchapter] are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Secretary by such title [this subchapter] may, where appropriate, be exercised by him in the administration of this section.

"(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

"(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

"(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act [section 1382e of this title]."

Section 2(b)(1) of Pub. L. 93–335, July 8, 1974, 88 Stat 291 provided that amendment of section 212(a)(3)(B)(i) of Pub. L. 93–66 by section 2(a) of Pub. L. 93–335 shall take effect on Jan. 1, 1974.

SAME; ADJUSTMENT OF INDIVIDUAL'S MONTHLY SUPPLEMENTAL SECURITY INCOME PAYMENTS; REGULATIONS; LIMITATIONS

Pub. L. 93–335, § 2(b)(2), July 8, 1974, 88 Stat. 291, provided that: "The Secretary of Health, Education, and Welfare is authorized to prescribe regulations for the adjustment of an individual's monthly supplemental security income payment in accordance with any increase to which such individual may be entitled under the amendment made by subsection (a) of this section [to section 212(a)(3)(B)(i) of Pub. L. 93–66, set out above]: *Provided*, That such adjustment in monthly payment, together with the remittance of any prior unpaid increments to which such individual may be entitled under such amendment, shall be made no later than the first day of the first month beginning more than sixty days after the date of the enactment of this Act [July 8, 1974]."

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1602 of the Social Security Act [this section] by Pub. L. 92–603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1602 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92–603 continues to apply as follows:

§ 1382. State plans for aid to aged, blind, or disabled or for such aid and medical assistance for aged

(a) Contents

A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) Provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing.

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational management it finds appropriate for this purpose) to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or aid under the State plan approved under part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first $85 per month of earned income plus one-half of earned income in excess of $85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of

other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first $80 per month of earned income, the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first $80 per month of earned income the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph

(14), disregard not more than $7.50 of any income;

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(16) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 1383 (a)(4)(A)(i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(17) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which administered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the test of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Secretary

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately proceeding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States. At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this subchapter, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section. If it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1333 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title

under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans.

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter. (Aug. 14, 1935, ch. 531, Title XVI, § 1602, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88–650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89–97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92–103, title IV, §§ 405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492.)

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a benefit under the supplemental security income benefits program established by this subchapter, see section 702 of Pub. L. 94–12, set out as a note under section 402 of this title.

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Additional requirement for approval of subchapter XIX State plan for medical assistance respecting medicaid eligibility for individuals receiving mandatory State supplementary payments, see section 13(c) of Pub. L. 93–233, set out as a note under section 1396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1382a, 1382c, 1382f, 1383, 1396b of this title.

§ 1382a. Income; definition of earned and unearned income; exclusions from income.

(a) For purposes of this subchapter, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 403(f)(5)(C) of this title; and

(B) net earnings from self-employment, as defined in section 411 of this title (without the application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1382 of this title shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph; and (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement, annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

(F) rents, dividends, interest, and royalties.

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) Monthly[1] (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.

(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1202 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by

[1] So in original. Probably should be "monthly".

the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan.

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance described in section 1382e(a) of this title which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child one-third of any payment for his support received from an absent parent; and

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency.

(Aug. 14, 1935, ch. 531, title XVI, § 1612, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1468, and amended Oct. 26, 1974, Pub. L. 93–484, § 4, 88 Stat. 1460; Jan. 2, 1976, Pub. L. 94–202, § 9, 89 Stat. 1140.)

CODIFICATION

Section 1382 of this title, referred to in subsec. (b)(4)(A) and (B), is a reference to section 1382 of this title as it existed prior to the general revision of this subchapter by Pub. L. 92–603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94–202 designated existing provisions as par. (A) and added par. (B).

1974—Subsec. (a)(2)(A). Pub. L. 93–484 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93–484 provided is part that amendment of subsec. (a)(2)(A) by Pub. L. 93–484 is effective Jan. 1, 1974.

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382, 1382e, 1396b of this title.

§ 1382b. Resources; exclusions from resources; disposition of resources.

(a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto), to the extent that its value does not exceed such amount as the Secretary determines to be reasonable;

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amounts as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan; and

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 1606(h) and section 1607(c) of Title 43.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid. (Aug. 14, 1935, ch. 531, title XVI, § 1613, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1470.)

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1382 of this title.

§ 1382c. Definitions.

(a) (1) For purposes of this subchapter, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 1153(a)(7) or section 1182(d)(5) of Title 8).

(2) An individual shall be considered to be blind for purposes of this subchapter if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this subchapter if he is blind as defined under a State plan approved under subchapter X or XVI of this chapter as in effect for October 1972 and receive aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this subchapter if he is permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(4)(A) For purposes of this subchapter, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(B) The term "period of trial work", with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this subchapter on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this subchapter on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

(b) For purposes of this subchapter, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not

been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1382(a) of this title.

(c) For purposes of this subchapter, the term "child" means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

(d) In determining whether two individuals are husband and wife for purposes of this subchapter, appropriate State law shall be applied; except that—

(1) if a man and women [1] have been determined to be husband and wife under section 416(h)(1) of this title for purposes of subchapter II of this chapter they shall be considered (from and after the date of such determination or the date of their application for benefits under this subchapter, whichever is later) to be husband and wife for purposes of this subchapter, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this subchapter notwithstanding any other provision of this section.

(e) For purposes of this subchapter, the term "United States," when used in a geographical sense, means the 50 States and the District of Columbia.

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 21, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances. (Aug. 14, 1935, ch. 531, title XVI, § 1614, as added Oct. 30, 1972, Pub. L. 92–602, title III, § 301, 86 Stat. 1471), and amended Dec. 31, 1973, Pub. L. 93–233, § 9, 87 Stat. 957.)

AMENDMENTS

1973—Subsec. (a)(3)(A). Pub. L. 93–233, § 9(1), struck out last sentence defining a disabled individual as one permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for 1972 and receiving aid under such plan (on the basis of disability for December 1973, so long as the individual is continuously disabled as so defined, provisions now covered in subsec. (a)(3)(E) of this section.

[1] So in original.

Subsec. (a)(3)(E). Pub. L. 93–233, § 9(2), incorporated provisions of last sentence of subpar. (A) in provisions designated as subpar. (E) and inserted introductory text "Notwithstanding the provisions of subparagraphs (A) through (D)" and parenthetical phrase "(and for at least one month prior to July 1973)" following "December 1973."

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382, 1383, 1383b, 1396a, 1396d of this title.

§ 1382d. Rehabilitation services for blind and disabled individuals.

(a) Referral by Secretary of eligible individuals to appropriate State agency; review by Secretary of individual's blindness or disability and need for services.

In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this subchapter,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

(b) Acceptance by referred individuals of services; payment by Secretary to State agency of costs of providing services to referred individuals.

Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) of this section shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to individuals so referred.

(c) Refusal by referred individuals to accept services.

No individual shall be an eligible individual or eligible spouse for purposes of this subchapter if he refuses without good cause to accept vocational rehabilitation services for which he is referred under subsection (a) of this section. (Aug. 14, 1935, ch. 531, title XVI, § 1615, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1474.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsecs. (a) and (b), which was classified to section 31 et seq. of Title 29, was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of Title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973, section 701 et seq. of Title 29.

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

§ 1382e. Supplementary assistance by State or subdivision to needy individuals.

(a) Exclusion of cash payments in determination of income of individuals for purposes of eligibility for benefits; agreement by Secretary and State for Secretary to make supplementary payments on behalf of State or subdivision.

Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this subchapter or who would but for their income be eligible to receive benefits under this subchapter, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1382a(b)(6) of this title in determining the income of such individuals for purposes of this subchapter and the Secretary and such State may enter into an agreement which satisfies subsection (b) of this section under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Agreement between Secretary and State; contents.

Any agreement between the Secretary and a State entered into under subsection (a) of this section shall provide—

(1) that such payments will me made (subject to subsection (c) of this section) to all individuals residing in such State (or subdivision) who are receiving benefits under this subchapter, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c) of this section) to achieve efficient and effective administration of both the program which he conducts under this subchapter and the optional State supplementation.

(c) Residence requirement by State or subdivision for supplementary payments; disregarding of amounts of certain income by State or subdivision in determining eligibility for supplementary payments.

(1) Any State (or political subdivision) making supplementary payments described in subsection (a) of this section, may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a) of this section, may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(d) Payment to Secretary by State of amount equal to expenditures by Secretary as supplementary payments; time and manner of payment by State.

Any State which has entered into an agreement with the Secretary under this section which provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this subchapter (or who would but for their income be eligible to receive such benefits), shall, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

(e) Reduction of supplemental security income payments to individuals provided institutional medical or other remedial care, State financed under Federal grants for medical assistance.

Payments made under this subchapter with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a) of this section) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approved under subchapter XIX of this chapter if such care is (or could be) provided under a State plan approved under subchapter XIX of this chapter by an institution certified under such subchapter XIX. (Aug. 14, 1935, ch. 531, title XVI, § 1616, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1474, and amended Dec. 31, 1973, Pub. L. 93–233, § 14, 87 Stat. 965.)

AMENDMENTS

1973—Subsec. (e). Pub. L. 93–233 added subsec. (e).

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

LIMITATION ON FISCAL LIABILITY OF STATES FOR PAYMENT TO SECRETARY OF SUPPLEMENTARY PAYMENTS MADE BY SECRETARY PURSUANT TO AGREEMENT; DEFINITIONS

Section 401 of Pub. L. 92–603, as amended by Pub. L. 93–233, § 18(h), Dec. 31, 1973, 87 Stat. 969, provided that:

"(a)(1) The amount payable to the Secretary by a State for any fiscal year, other than fiscal year 1974, pursuant to its agreement or agreements under section 1616 of the Social Security Act [this section] shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section) [subchapters I, X, XIV and XVI of this chapter], and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures."

"(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

"(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

"(B) the benefits under title XVI of the Social Security Act, plus income not excluded under section 1612

(b) of such Act [section 1382a(b) of this title] in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act [this section] to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

"(b)(1) For purposes of subsection (a), the term 'adjusted payment level under the appropriate approved plan of a State as in effect for January 1972' means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter], as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed the sum of—

"(A) a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan, and

"(B) the bonus value of food stamps in such State for January 1972 (as defined in paragraph (3) of this subsection).

"(2) For purposes of paragraph (1), the term 'payment level modification' with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter].

"(3) For purposes of paragraph (1), the term 'bonus value of food stamps in a State for January 1972' (with respect to an individual) means—

"(A) the face value of the coupon allotment which would have been provided to such an individual under the Food Stamp Act of 1964 [chapter 51 of Title 7] for January 1972, reduced by

"(B) the charge which such an individual would have paid for such coupon allotment,

if the income of such individual, for purposes of determining the charge it would have paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

"(c) For purposes of this section, the term 'non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act' [subchapters I, X, XIV, and XVI of this chapter] means the difference between—

"(1) the total expenditures in such quarters under such plans for aid or assistance (excluding expenditures authorized under section 1119 of such Act [section 1319 of this title] for repairing the home of an individual who was receiving aid or assistance under one of such plans (as such section was in effect prior to the enactment of this Act) [Oct. 30, 1972]), and

"(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act [sections 303, 1203, 1353, and 1383 of this title], under section 1118 of such Act [section 1318 of this title], and under section 9 of the Act of April 19, 1950 [section 639 of Title 25], for such State with respect to such expenditures in such quarters."

Section 8(d) of Pub. L. 93–233 provided that: "Section 401(b)(1) of the Social Security Amendments of 1972 [supra] is amended by striking out everything after the word 'exceed' and inserting in lieu thereof: 'a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plans.'"

SAME; ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING 6-MONTH PERIOD BEGINNING JAN. 1, 1974

Section 8(c) of Pub. L. 93–233 provided that: "For purposes of the last sentence of section 3(e) of the Food Stamp Act of 1964 [section 2012(e) of Title 7] (as amended by subsection (a) of this section) [set out as a note under section 2012 of Title 7] and subsections (b)(3) and (f) of this section [set out as a note under section 612c of Title 7; there was no subsec. (f) enacted], the level of State supplementary payment under section 1616(a) [subsec. (a) of this section] shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) [subsec. (a) of this section] at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 [set out as a note under this section] and which is such that the limitation on State fiscal liability under section 401 [set out as a note under this section] does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect."

SAME; ADJUSTED PAYMENT LEVEL; PAYMENT LEVEL MODIFICATION FOR 30-MONTH PERIOD BEGINNING JAN. 1, 1974

Section 8(e) of Pub. 93–233, as amended by Pub. L. 93–335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235, provided that: "The amendment made by subsection (d) [supra] shall be effective only for the 30-month period beginning January 1, 1974, except that such amendment shall not during such period, be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps."

Amendment by section 18(h) of Pub. L. 93–233 effective Jan. 1, 1974, see section 18(z–3)(1) of Pub. L. 93–233, set out as a note under section 1320b of this title.

Amendment of section 8(e) of Pub. L. 93–233 by section 1(b) of Pub. L. 93–335, effective July 1, 1974, see section 1(c) of Pub. L. 93–335, set out as a note under section 1382 of this title.

Section 1(c) of Pub. L. 93–335, July 8, 1974, 88 Stat. 291, provided that amendments by section 1(a) and (b) of Pub. L. 93–335 to section 8(a)(1), (2), (b)(1)–(3) and (e) of Pub. L. 93–233, Dec. 31, 1973, 87 Stat. 956, set out as notes under this section and sections 612c, 1431 and 2012 of Title 7, Agriculture, shall be effective as of July 1, 1974.

TRANSITIONAL ADMINISTRATION OF PROGRAMS BY STATE PURSUANT TO AGREEMENT BETWEEN STATE AND SECRETARY

Section 402 of Pub. L. 92–603, as amended by Pub. L. 93–233, § 18(1), Dec. 31, 1973, 87 Stat. 970, provided that: "In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act [subchapter IV, V, XVI, or XIX of this chapter] with respect to expenditures for the third and fourth quarters in the fiscal year ending June 30, 1974, and any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act [enacting this subchapter], during such portion of the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of

the fiscal year ending June 30, 1975, as may be provided in such agreement."

COMMODITY DISTRIBUTION PROGRAM: INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS AS MEMBER OF HOUSEHOLD FOR ANY PURPOSE OF PROGRAM

Individual receiving supplemental security income benefits or payments as part of benefits or payments described in subsec. (a) of this section as member of a household for any purpose of the food distribution program, see section 4(c) of Pub. L. 93–86, set out as a note under section 612c of Title 7, Agriculture.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382a, 1383 of this title; title 7 section 2012.

§ 1382f. Cost-of-living adjustments in benefits.

Whenever benefit amounts under subchapter II of this chapter are increased by any percentage effective with any month as a result of determination made under section 415(i) of this title, each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), (b)(2) of section 1382 of this title, and subsection (a)(1)(A) of section 211 of Public Law 93–66, as specified in such subsections or as previously increased under this section, shall be increased by the same percentage (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20), effective with respect to benefits for months after such month; and such dollar amounts as so increased shall be published in the Federal Register together with, and at the same time as, the material required by section 415(i)(2)(D) of this title to be published therein by reason of such determination. (Aug. 14, 1935, ch. 531, title XVI, § 1617, as added Aug. 7, 1974, Pub. L. 93–368, § 6(b), 88 Stat. 421.)

REFERENCES IN TEXT

Section 211 of Pub. L. 93–66, referred to in text, is set out as Federal Program of Supplemental Security Income note under section 1382 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1382 of this title.

PART B—PROCEDURAL AND GENERAL PROVISIONS

§ 1383. Procedure for payment of benefits.

(a) Time, manner, form, and duration of payments; promulgation of regulations.

(1) Benefits under this subchapter shall be paid at such time or times and in such installments as will best effectuate the purposes of this subchapter, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1382(e)(3)(A) of this title, the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this subchapter shall apply.

(4) The Secretary—

(A) may make to any individual initially applying for benefits under this subchapter who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this subchapter to an individual applying for such benefits on the basis of disability for a period not exceeding 3 months prior to the determination of such individual's disability, if such individual is presumptively disabled and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) of this section solely because such individual is determined not to be disabled.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3), of this title), and who ceases to be blind or to be under such disability shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

(b) Overpayments and underpayments; adjustment, recovery, or payment of amounts by Secretary.

Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subchapter, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this subchapter.

(c) Hearing to determine eligibility or amount of benefits; time within which to request hearing; time for determinations of Secretary pursuant to hearing; judicial review.

(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this subchapter. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is

or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this subchapter with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1382c(a)(3) of this title), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 405(g) of this title to the same extent as the Secretary's final determinations under section 405 of this title.

(d) Procedures applicable; prohibition on assignment of payments; representation of claimants; maximum fees; penalties for violations.

(1) The provisions of section 407 of this title and subsections (a), (d), (e), and (f) of section 405 of this title shall apply with respect to this part to the same extent as they apply in the case of subchapter II of this chapter.

(2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this subchapter, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this subchapter, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

(e) Administrative requirements prescribed by Secretary; criteria; reduction of benefits to individual for noncompliance with requirements.

(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this subchapter.

(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this subchapter will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that revelant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this subchapter as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such individual under this subchapter by—

(A) $25 in the case of the first such failure or delay,

(B) $50 in the case of the second such failure or delay, and

(C) $100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

(f) Furnishing of information by Federal agencies.

The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

(g) Reimbursement to States for interim assistance payments; definitions; agreement; hearing provisions inapplicable to disagreements concerning payments; termination date; report to Congress.

(1) Notwithstanding subsection (d)(1) of this section and subsection (b) of this section as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

(2) For purposes of this subsection, the term "benefits" with respect to any individual means supplemental security income benefits under this subchapter, and any State supplementary payments under section 1382e of this title or under section 212 of Public Law 93–66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) of this section shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this subchapter, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) of this section shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

(6) The provisions of this subsection shall expire on June 30, 1976. At least sixty days prior to such expiration date, the Secretary shall submit to Congress a report assessing the effects of actions taken pursuant to this subsection, including the adequacy of interim assistance provided and the efficiency and effectiveness of the administration of such provisions. Such report may include such recommendations as the Secretary deems appropriate. (Aug. 14, 1935, ch. 531, title XVI, § 1631, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1475, and amended Dec. 31, 1973, Pub. L. 93–233, § 18(g), 87 Stat. 969; Aug. 7, 1974, Pub. L. 93–368, § 5, 88 Stat. 420; Jan. 2, 1976, Pub. L. 94–202, §§ 1, 2, 89 Stat. 1135.)

REFERENCES IN TEXT

Section 212 of Pub. L. 93–66, referred to in subsec. (g)(2), is set out as Mandatory Minimum State Supplementation of Supplemental Security Income Benefits Program note under section 1382 of this title.

CODIFICATION

A prior section 1383, act Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89–97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90–248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92–512, title III, § 301(b), (d), (e), 86 Stat. 946, 947, related to the determination of amounts payable to the states.

AMENDMENTS

1976—Subsec. (c)(1). Pub. L. 94–202, § 1, increased the authority of the Secretary by permitting him to hold hearings on his own motion, to administer oaths, examine witnesses, and receive evidence at hearings, and increased the time within which a request for a hearing be made after notice of the Secretary's determination is received from thirty to sixty days.

Subsec. (c)(2). Pub. L. 94–202, § 1, reenacted subsec. (c)(2) without change.

Subsec. (c)(3). Pub. L. 94–202, § 1, deleted the exception to judicial review which made factual determinations by the Secretary, after a hearing as provided by subsec. (c)(1), final and conclusive.

Subsec. (d). Pub. L. 94–202, § 2, struck out par. (2), which related to the appointment of individuals to serve as hearing examiners without meeting the specific standards prescribed for hearing examiners, and redesignated par. (3) as par. (2).

1974—Subsec. (g). Pub. L. 93–368 added subsec. (g).

1973—Subsec. (a)(4)(B). Pub. L. 93–233 inserted "solely because such individual is determined not to be disabled."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–202 effective Jan. 2, 1976, with the amendment of subsec. (c), to the extent that it changes the period within which a hearing must be requested, applicable to any decision or determination which is received on or after Jan. 2, 1976, see section 5 of Pub. L. 94–202, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective Jan. 1, 1974, see section 18(z–3)(1) of Pub. L. 93–233, set out as a note under section 1320b of this title.

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

HEARING EXAMINERS APPOINTED PRIOR TO JANUARY 2, 1976

Section 3 of Pub. L. 94–202 provided that: "The persons appointed under section 1631(d)(2) of the Social Security Act [subsec. (d)(2) of this section] (as in effect prior

to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act [subsec. (c) of this section] may conduct hearings under titles II, XVI, and XVIII of the Social Security Act [subchapters II, XVI, and XVIII of this chapter] if the Secretary of Health, Education, and Welfare finds it will promote the achievement of the objectives of such titles [subchapters], notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period they shall be deemed to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105."

PRESUMPTIVE DISABILITY BENEFITS; TIME EXTENSION

Pub. L. 93–256, § 1, Mar. 28, 1974, 88 Stat. 52, provided: "That any individual who would be considered disabled under section 1614(a)(3)(E) of the Social Security Act [section 1382c(a)(3)(E) of this title] except that he did not receive aid under the appropriate State plan for at least one month prior to July 1973 may be considered to be presumptively disabled under section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] and may be paid supplemental security income benefits under title XVI of that Act [this subchapter] on the basis of such presumptive disability, and State supplementary payments under section 212 of Public Law 93–66 [set out as a note under section 1382 of this title] as though he had been determined to be disabled within the meaning of section 1614(a)(3) of the Social Security Act [section 1382c(a)(3) of this title], for any month in calendar year 1974 for which it has been determined that he is otherwise eligible for such benefits, without regard to the three-month limitation in section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] on the period for which benefits may be paid to presumptively disabled individuals, except that no such benefits may be paid on the basis of such presumptive disability for any month after the month in which the Secretary of Health, Education, and Welfare has made a determination as to whether such individual is disabled, as defined in section 1614(a)(3)(A) of that Act [section 1382c(a)(3)(A) of this title]".

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1603 of the Social Security Act [this section] by Pub. L. 92–603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1603 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92–603 continues to apply as follows:

§ 1383. Payments to States; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965

(a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this subchapter for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) 31/37 of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received such aid in the form of money payments of such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii)(I) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (1) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section

300(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) In the case of any State whose State plan approved under section 1382 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled at such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 1382 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemd obligated.

(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 1382 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not

be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection.

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection. (Aug. 14. 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89–97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90–248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92–512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93–647, §§ 3(e)(2), 5(e), 88 Stat. 2349, 2350.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1306a, 1315, 1317, 1318, 1319, 1396a of this title.

§ 1383a. Fraudulent acts; penalties.

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (Aug. 14, 1935, ch. 531, title XVI, § 1632, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1478.)

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

§ 1383b. Administration.

(a) Subject to subsection (b) of this section, the Secretary may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1382c(a)(2) and (3) of this title in the same manner and subject to the same conditions as provided with respect to disability determinations under section 421 of this title) as may be necessary or appropriate to carry out his functions under this subchapter.

(b) In determining, for purposes of this subchapter, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select. (Aug. 14, 1935, ch. 531, title XVI, § 1633, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1478, and amended July 9, 1973, Pub. L. 93–66, title II, § 214, 87 Stat. 158.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–66, § 214(1), (2), designated existing provisions as subsec. (a) and made the authority of the Secretary subject to subsec. (b) of this section.

Subsec. (b). Pub. L. 93–66, § 214(3), added subsec. (b).

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; PREFERENCE FOR PRESENT STATE AND LOCAL EMPLOYEES

Section 213 of Pub. L. 93–66 provided that: "The Secretary of Health, Education, and Welfare, in the recruitment and selection for employment of personnel whose services will be utilized in the administration of the Federal program of supplemental security income for the aged, blind, and disabled (established by title XVI of the Social Security Act [this subchapter]), shall give a preference, as among applicants whose qualifications are reasonably equal (subject to any preferences conferred by law or regulation on individuals who have been Federal employees and have been displaced from such employment), to applicants for employment who are or were employed in the administration of any State program approved under title [subchapter] I, X, XIV, or XVI of such Act [this chapter] and are or were involuntarily displaced from their employment as a result of the displacement of such State program by such Federal program."

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

§ 1383c. Eligibility for medical assistance of aged, blind, or disabled individuals under State's medical assistance plan; determination by Secretary pursuant to agreement between Secretary and State; costs.

The Secretary may enter into an agreement with any State which wishes to do so under which he will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under subchapter XIX

of this chapter. Any such agreement shall provide for payments by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this subchapter, the Secretary shall include only those costs which are additional to the costs incurred in carrying out this subchapter. (Aug. 14, 1935, ch. 531, title XVI, § 1634, as added Oct. 30, 1972, Pub. L. 92–603, title III, § 301, 86 Stat. 1478.)

EFFECTIVE DATE

Section 301 of Pub. L. 92–603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92–603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title.

§ 1384. Operation of State plans.

Section, act Aug. 14, 1935, c. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 204, which related to the operation of State plans, was omitted in the general revision of this subchapter by Pub. L. 92–603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of Subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92–603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1604 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92–603 continues to apply as follows:

§ 1384. Operation of State plans

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1332 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 204.)

§ 1385. Definitions.

Section, act Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 204, and amended July 30, 1965, Pub. L. 89–97, title II, §§ 221(d) (1), (2), 222(b), title IV, § 402(b), 79 Stat. 358, 360, 416, which defined the terms "aid to the aged, blind, or disabled" and "medical assistance for the aged", was omitted in the general revision of this subchapter by Pub. L. 92–603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92–603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92–603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1605 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92–603 continues to apply as follows:

§ 1385. Definitions

(a) For purposes of this subchapter, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved, under section 1382 of this title includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled (except, for any month, for recipients of aid to the aged, blind, or disabled who are submitted to or discharged from a medical institution during such month) but whose

income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;
(2) skilled nursing-home services;
(3) physicians' services;
(4) outpatient hospital or clinic services;
(5) home health care services;
(6) private duty nursing services;
(7) physical therapy and related services;
(8) dental services;
(9) laboratory and X-ray services;
(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;
(11) diagnostic, screening, and preventing services; and
(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution). (Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 204, and amended July 30, 1965, Pub. L. 89–97, title II, §§ 221(d) (1), (2), 222(b), title IV, § 402(b), 79 Stat. 358, 360, 416; Oct. 30, 1972, Pub. L. 92–603, title IV, §§ 408(d), 409(d), 86 Stat. 1490, 1491.)

SUBCHAPTER XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 300e–6, 401, 426, 705, 706, 1306, 1320a–1, 1320a–2, 1320c–9, 1320c–14, 1353, 1383, 1395x, 1395gg, 1396a, 1396b, 1396e, 1396l, 1397a, 2689e of this title; title 12 section 1715w; title 38 section 4108; title 45 section 231r.

§ 1395b–1. Incentives for economy while maintaining or improving quality in the provision of health services.

(a) Grants and contracts to develop and engage in experiments and demonstration projects.

(1) The Secretary of Health, Education, and Welfare is authorized, either directly or through grants to public or nonprofit private agencies, institutions, and organizations or contracts with public or private agencies, institutions, and organizations, to develop and engage in experiments and demonstration projects for the following purposes:

(A) to determine whether, and if so which, changes in methods of payment or reimbursement (other than those dealt with in section 222(a) of the Social Security Amendments of 1972) for health care and services under health programs established by this chapter, including a change to methods based on negotiated rates, would have the effect of increasing the efficiency and economy of health services under such programs through the creation of additional incentives to these ends without adversely affecting the quality of such services;

(B) to determine whether payments for services other than those for which payment may be made under such programs (and which are incidental to services for which payment may be made under such programs) would, in the judgment of the Secretary, result in more economical provision and more effective utilization of services for which payment may be made under such program, where such services are furnished by organizations and institutions which have the capability of providing—

(i) comprehensive health care services,
(ii) mental health care services (as defined by section 2691(c) of this title,
(iii) ambulatory health care services (including surgical services provided on an outpatient basis), or
(iv) institutional services which may substitute, at lower cost, for hospital care;

(C) to determine whether the rates of payment or reimbursement for health care services, approved by a State for purposes of the administration of one or more of its laws, when utilized to determine the amount to be paid for services furnished in such State under the health programs establish by this chapter, would have the effect of reducing the costs of such programs without adversely affecting the quality of such services;

(D) to determine whether payments under such programs based on a single combined rate of reimbursement or charge for the teaching activities and patient care which residents, interns, and supervising physicians render in connection with a graduate medical education program in a patient facility would result in more equitable and economical patient care arrangements without adversely affecting the quality of such care;

(E) to determine whether coverage of intermediate care facility services and homemaker services would provide suitable afternatives to posthospital benefits presently provided under this subchapter; such experiment and demonstration projects may include:

(i) counting each day of care in an intermediate care facility as one day of care in a skilled nursing facility, if such care was for a condition for which the individual was hospitalized,
(ii) covering the services of homemakers for a maximum of 21 days, if institutional services are not medically appropriate,
(iii) determining whether such coverage would reduce long-range costs by reducing the lengths of stay in hospitals and skilled nursing facilities, and
(iv) establishing alternative eligibility requirements and determining the probable cost of applying each alternative, if the project suggests that such extension of coverage would be desirable;

(F) to determine whether, and if so which type of, fixed price or performance incentive contract would have the effect of inducing to the greatest degree effective, efficient, and economical performance of agencies and organizations making payment under agreements or contracts with the Secretary for health care and services under health programs established by this subchapter;

(G) to determine under what circumstances payment for services would be appropriate and the most appropriate, equitable, and noninflationary methods and amounts of reimbursement under health care programs established by this subchapter for services, which are performed independently by an assistant to a physician, including a nurse practitioner (whether or not performed

in the office of or at a place at which such physician is physically present), and—

(i) which such assistant is legally authorized to perform by the State or political subdivision wherein such services are performed, and

(ii) for which such physician assumes full legal and ethical responsibility as to the necessity, propriety, and quality thereof;

(H) to establish an experimental program to provide day-care services, which consist of such personal care, supervision, and services as the Secretary shall by regulation prescribe, for individuals eligible to enroll in the supplemental medical insurance program established under part B of this subchapter and subchapter XIX of this chapter, in day-care centers which meet such standards as the Secretary shall by regulation establish; and

(I) to determine whether the services of clinical psychologists may be made more generally available to persons eligible for services under this subchapter and subchapter XIX of this chapter in a manner consistent with quality of care and equitable and efficient administration.

For purposes of this subsection,"health programs established by this chapter" means the program established by this subchapter, a program established by a plan of a State approved under subchapter XIX of this subchapter, and a program established by a plan of a State approved under subchapter V of this chapter.

(2) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under paragraph (1) shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1395t of this title) and from funds appropriated under subchapters V and XIX of this chapter. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such subchapters V and XIX of this chapter) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

(b) Waiver of certain payment or reimbursement requirements; advice and recommendations of specialists preceding experiments and demonstration projects.

In the case of any experiment or demonstration project under subsection (a) of this section, the Secretary may waive compliance with the requirements of this subchapter and subchapters V and XIX of this chapter insofar as such requirements relate to reimbursement or payment on the basis of reasonable cost, or (in the case of physicians) on the basis of reasonable charge, or to reimbursement or payment only for such services or items as may be specified in the experiment; and costs incurred in such experiment or demonstration project in excess of the costs which would otherwise be reimbursed or paid under such subchapters may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be engaged in or developed under subsection (a) of this section until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment or demonstration project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct the proposed experiment or demonstration project, and its relationship to other similar experiments and projects already completed or in process. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 222(b), 278(b)(2), 86 Stat. 1391, 1453.)

REFERENCES IN TEXT

Section 222(a) of the Social Security Amendments of 1972, referred to in subsec. (a)(1)(A), is section 222(a) of Pub. L. 92–603, which is set out as a note under section 1395f of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 222(b)(1), 278(b)(2), substituted provisions spelling out in detail the purposes for which experiments and demonstration projects may be carried out for a general statement setting out the increase in efficiency and economy of health services as the purpose of experiments selected by the Secretary, added references to demonstration projects, and inserted references to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund.

Subsec. (b). Pub. L. 92–603, § 222(b)(2), added references to demonstration projects and inserted ", or to reimbursement or payment only for such services or items as may be specified in the experiment".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395*ll* of this title.

PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 426, 429, 1320b–1, 1395o, 1395p, 1395u, 1395x, 1395y, 1395ff, 1395*ll*, 1395mm, 1395pp of this title; title 45 section 231f.

§ 1395c. Description of program.

The insurance program for which entitlement is established by section 426 of this title provides basic protection against the costs of hospital and related posthospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under subchapter II of this chapter or under the railroad retirement system and (2) individuals under age 65 who have been entitled for not less than 24 consecutive months to benefits under subchapter II of this chapter or under the railroad retirement system on the basis of a disability. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 201(a)(2), 86 Stat. 1371.)

AMENDMENTS

1972—Pub. L. 92–603 designated existing provisions as cl. (1) and added cl. (2).

§ 1395d. Scope of benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395mm, 1396b of this title.

§ 1395e. Deductibles and coinsurance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395l–2, 1395*l*, 1395x, 1395cc of this title.

§ 1395f. Conditions of and limitations on payment for services.

(a) Requirement of requests and certifications.

Except as provided in subsections (d) and (g) of this section and in section 1395mm of this title, payment for services furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc of this title and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year;

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

* * * * *

(C) in the case of post-hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1395x(e) of this title) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

(D) in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1395x(e) of this title) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician; or

(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;

* * * * *

(6) with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or skilled nursing facility, as the case may be, a decision under section 1395cc(d) of this title (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility); and

(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 1395x(k)(4) of this title, including any finding made in the course of a sample or other review of admissions to the institution) pursuant to the system of utilization review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or skilled nursing facility, as the case may be, received notice of such finding.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), (D), or (E) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

* * * * *

(b) Amount paid to provider of services.

The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1395e of this title, be—

(1) the lesser of (A) the reasonable cost of such services, as determined under section 1395x(v) of

this title, or (B) the customary charges with respect to such services; or

(2) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such provider for such services.

* * * * *

(f) Payment for certain inpatient hospital services furnished outside the United States.

(1) Payment shall be made for inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 426 of this title by a hospital located outside the United States, or under arrangements (as defined in section 1395x(w) of this title) with it, if—

(A) such individual is a resident of the United States, and

(B) such hospital was closer to, or substantially more accessible from, the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

(2) Payment may also be made for emergency inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 426 of this title by a hospital located outside the United States if—

(A) such individual was physically present—

(i) in a place within the United States; or

(ii) at a place within Canada while traveling without unreasonable delay by the most direct route (as determined by the Secretary) between Alaska and another State;

at the time the emergency which necessitated such inpatient hospital services occurred, and

(B) such hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

(3) Payment shall be made in the amount provided under subsection (b) of this section to any hospital for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual by the hospital or under arrangements (as defined in section 1395x(w) of this title) with it if (A) the Secretary would be required to make such payment if the hospital had an agreement in effect under this subchapter and otherwise met the conditions of payment hereunder, (B) such hospital elects to claim such payment, and (C) such hospital agrees to comply, with respect to such services, with the provisions of section 1395cc(a) of this title.

(4) Payment for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual entitled to hospital insurance benefits under section 426 of this title may be made on the basis of an itemized bill to such individual if (A) payment for such services cannot be made under paragraph (3) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and continuing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement. The amount payable with respect to such services shall, subject to the provisions of section 1395e of this title, be equal to the amount which would be payable under subsection (d)(3) of this section.

(g) Payments to physicians for services rendered in teaching hospitals.

For purposes of services for which the reasonable cost thereof is determined under section 1395x(v)(1)(D) of this title, payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1395cc of this title, and

(2) the Secretary has received written assurances that (A) such payment will be used by such fund solely for the improvement of care of hospital patients or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged, provision will be made for return of any moneys incorrectly collected).

(h) Payment for posthospital extended care services.

(1) An individual shall be presumed to require the care specified in subsection (a)(2)(C) of this section for purposes of making payment to a skilled nursing facility (subject to the provisions of section 1395d of this title) for posthospital extended care services which are furnished by such facility to such individual if—

(A) the certification referred to in subsection (a)(2)(C) of this section is submitted prior to or at the time of admission of such individual to such skilled nursing facility.

(B) such certification states that the medical condition of the individual is a condition designated in regulations.

(C) such certification is accompanied by a plan of treatment for providing such services, and

(D) there is compliance with such other requirements and procedures as may be specified in regulations,

but only for services furnished during such limited periods of time with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum length of stay in an institution generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

(2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations

as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A), (B), or (C) of paragraph (1).

(i) Payment for posthospital home health services.

(1) An individual shall be presumed to require the services specified in subsection (a)(2)(D) of this section for purposes of making payment to a home health agency (subject to the provisions of section 1395d of this title) for posthospital home health services furnished by such agency to such individual if—

(A) the certification and plan referred to in subsection (a)(2)(D) of this section are submitted in timely fashion prior to the first visit by such agency,

(B) such certification states that the medical condition of the individual is a condition designated in regulations, and

(C) there is compliance with such other requirements and procedures as may be specified in regulations,

but only for services furnished during such limited number of visits with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum period of home confinement generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

(2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A) or (B) of paragraph (1). (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 211(a), 226(c)(1), 227(b), 228(a), 233(a), 234(g)(1), 238(a), 247(a), 256(a), 278(a)(1)–(3), (b)(4), (17), 281(e), 86 Stat. 1382, 1404, 1405, 1407, 1411, 1413, 1416, 1425, 1447, 1453, 1454, 1456; Dec. 31, 1973, Pub. L. 93–233, § 18(k)(1), (2), 87 Stat. 970.)

AMENDMENTS

1973—Subsec. (a)(2)(E). Pub. L. 93–233, § 18(k)(1), substituted "the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services" for "a dental procedure, the individual suffers from impairments of such severity as to require hospitalization."

Subsec. (a), last sentence. Pub. L. 93–233, § 18(k)(2), inserted reference to subpar. (E) of par. (2).

1972—Subsec. (a). Pub. L. 92–603, §§ 226(c)(1), 227(b)(1), added reference to subsec. (g) of this section and section 1395mm of this title in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92–603, § 281(e), placed a 3-year time limitation on the time within which a written request for payment is filed, with provision for reduction of the limit to 1 year.

Subsec. (a)(2)(C). Pub. L. 92–603, §§ 234(g)(1), 247(a), 278(a)(1), substituted "because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis," for "on an inpatient basis because the individual needs or needed skilled nursng care on a continuing basis", "skilled nursing facility" for "extended care facility", and "paragraphs (6) and (9) of section 1395x(e) of this title" for "paragraphs (6) and (8) of section 1395x(e) of this title".

Subsec. (a)(2)(D). Pub. L. 92–603, § 234(g)(1), substituted reference to par. (9) of section 1395x(e) of this title for reference to par. (8) of section 1395x(e) of this title.

Subsec. (a)(2)(E). Pub. L. 92–603, § 256(a), added subsec. (a)(2)(E).

Subsec. (a)(6). Pub. L. 92–603, § 278(a)(2), substituted "skilled nursing facility" for "extended care facility".

Subsec. (a)(7). Pub. L. 92–603, §§ 238(a), 278(a)(3), inserted", including any finding made in the course of a sample or other review of admissions to the institution" following "as described in section 1395x(k)(4) of this title" in the parenthetical provisions covering the finding not made by the committee or group, and substituted "skilled nursing facility" for "extended care facility".

Subsec. (b). Pub. L. 92–603, § 233(a), substituted pars. (1) and (2) for provisions describing the amount payable as the reasonable cost determined under section 1395x(v) of this title.

Subsec. (f). Pub. L. 92–603, § 211(a), designated existing provisions as par. (2) and added pars. (1) and (3) and in par. (2) as so redesignated inserted provisions covering individuals physically present at a place within Canada while traveling without unreasonable delay by the most direct route between Alaska and another State.

Subsec. (g). Pub. L. 92–603, § 227(b)(2), added subsec. (g).

Subsec. (h). Pub. L. 92–603, §§ 228(a), 278(b)(4), (17), added subsec. (h) and in subsec. (h) as added, substituted "skilled nursing facility" for "extended care facility."

Subsec. (i). Pub.. L. 92–603, § 228(a), added subsec. (i).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 18(z–3)(2) of Pub. L. 93–233 provided that: "The amendments made by subsection (k) [amending subsec. (a)(2)(E) and last sentence of subsec. (a) of this section and section 1395y(a)(12) of this title] shall be effective with respect to admissions subject to the provisions of section 1814(a)(2) of the Social Security Act [subsec. (a)(2) of this section] which occur after December 31, 1972."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 211(d) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (f) of this section and sections 1395x(e) and (r), 1395y(a)(4), 1395u(b)(3)(B)(ii) and 1395*l*(a)(1) of this title] shall apply to services furnished with respect to admissions occuring after December 31, 1972."

Amendment of section by section 226(c)(1) of Pub. L. 92–603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92–603, set out as a note under section 1395mm of this title.

Amendment of section by section 227(b) of Pub. L. 92–603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Section 228(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [adding subsecs. (h) and (i) to this section] and any regulations adopted pursuant to such amendment shall apply with respect to plans of care initiated on or after January 1, 1973, and with respect to admission to skilled nursing facilities and home health plans initiated on or after such date."

Section 233(f) of Pub. L. 92–603 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1395*l* of this title] shall apply to services furnished by hospitals, extended care facilities, and home health agencies in accounting periods beginning after December 31, 1972. The amendments made by

subsections (c), (d), and (e) [amending sections 706, 709 and 1396b of this title] shall apply with respect to services furnished by hospitals in accounting periods beginning after December 31, 1972." See, also, section 16 of Pub. L. 93–233, set out as a note hereunder.

Amendment of subsec. (a)(2)(C), (D), of this section by section 234(g)(1) of Pub. L. 92–603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Section 238(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (a)(7) of this section] shall apply with respect to services furnished after the second month following the month in which this Act is enacted. [Oct. 1972]."

Section 247(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting section 1396d(f) of this title and amending subsec. (a)(2)(C) of this section] shall be effective with respect to services furnished after December 31, 1972."

Section 256(d) of Pub. L. 92–603 provided that: "The amendments made by this section [amending subsec. (a)(2) of this section and sections 1395x(r) and 1395y(a)(12) of this title] shall apply with respect to admissions occurring after the second month following the month in which this Act is enacted [Oct. 1972]."

Amendment of subsec. (a)(1) of this section by section 281(e) of Pub. L. 92–603 to apply in the case of services furnished (or deemed to have been furnished) after 1970, see section 281(g) of Pub. L. 92–603, set out as a note under section 1395gg of this title.

MEDICARE PAYMENT BASIS FOR SERVICES PROVIDED BY AGENCIES AND PROVIDERS; EFFECTIVE DATE

Section 16 of Pub. L. 93–233 provided that: "In the administration of titles [subchapters] V, XVIII, and XIX of the Social Security Act [this chapter], the amount payable under such title [subchapter] to any provider of services on account of services provided by such hospital, skilled nursing facility, or home health agency shall be determined (for any period with respect to which the amendments made by section 233 of Public Law 92–603 [to this section and sections 706, 709, 1395l and 1396b of this title] would, except for the provisions of this section, be applicable) in like manner as if the date contained in the first and second sentences of subsection (f) of such section 233 [set out as 1972 Effective Date note hereunder] were December 31, 1973, rather than December 31, 1972."

SCOPE OF GRANTS FOR EXPERIMENTS AND DEMONSTRATION PROJECTS TO DETERMINE METHODS FOR PROSPECTIVE PAYMENTS TO HOSPITALS, SKILLED NURSING FACILITIES, AND OTHER PROVIDERS OF SERVICES

Pub. L. 94–182, title I, § 107, Dec. 31, 1975, 89 Stat. 1053, provided that:

"Nothing contained in section 222(a) of Public Law 92–603 [set out as a note under this section] shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

"(1) the applicant for such grant is a State or an agency thereof,

"(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section [Dec. 31, 1975] and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act [subchapter XIX of this chapter],

"(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

"(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3)."

EXPERIMENTS AND DEMONSTRATION PROJECTS TO DETERMINE METHODS FOR PROSPECTIVE PAYMENTS TO HOSPITALS, SKILLED NURSING FACILITIES, AND OTHER PROVIDERS OF SERVICES FOR CARE AND SERVICES FURNISHED; SCOPE; WAIVER OF PAYMENT REQUIREMENTS; SOURCE AND MANNER OF PAYMENTS FOR GRANTS, ETC.; REPORTS TO CONGRESS

Section 222(a) of Pub. L. 92–603 provided that:

"(1) The Secretary of Health, Education, and Welfare, directly or through contracts with, or grants to, public or private agencies or organizations, shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of making payment on a prospective basis to hospitals, skilled nursing facilities, and other providers of services for care and services provided by them under title XVIII of the Social Security Act [this subchapter] and under State plans approved under titles XIX and V of such Act [subchapters XIX and V of this chapter], including alternative methods for classifying providers, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate such providers through positive (or negative) financial incentives to use their facilities and personnel more efficiently and thereby to reduce the total costs of the health programs involved without adversely affecting the quality of services by containing or lowering the rate of increase in provider costs that has been and is being experienced under the existing system of retroactive cost reimbursement.

"(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods of prospective payment under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the programs involved (without committing such programs to the adoption of any prospective payment system either locally or nationally).

"(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the requirements of titles XVIII, XIX, and V of the Social Security Act [this subchapter and subchapters XIX and V of this chapter] insofar as such requirements relate to methods of payment for services provided; and costs incurred in such experiment or project in excess of those which would otherwise be reimbursed or paid under such titles [subchapters] may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be developed or carried out under paragraph (1) until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment or project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct it, and its relationship to other similar experiments or projects already completed or in process; and no such experiment or project shall be actually placed in operation unless at least 30 days prior thereto a written report, prepared for purposes of notification and information only, containing a full and complete description thereof has been transmitted to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

"(4) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under this subsection shall be made in appropriate part from the Federal Hospital Insurance Trust

Fund (established by section 1817 of the Social Security Act [section 1395i of this title]) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act [section 1395t of this title]) and from funds appropriated under titles V and XIX of such Act [subchapters V and XIX of this chapter.] Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such titles V and XIX [subchapters V and XIX of this chapter]) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

"(5) The Secretary shall submit to the Congress no later than July 1, 1974, a full report on the experiments and demonstration projects carried out under this subsection and on the experience of other programs with respect to prospective reimbursement together with any related data and materials which he may consider appropriate. Such report shall include detailed recommendations with respect to the specific methods which could be used in the full implementation of a system of prospective payment to providers of services under the programs involved."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426, 1395d, 1395*l*, 1395n, 1395x, 1395y, 1395cc, 1395gg, 1395mm of this title.

§ 1395g. Payments to providers of services; conditions; amount.

(a) The Secretary shall periodically determine the amount which should be paid under this part to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Secretary believes appropriate (but not less often than monthly) and prior to audit or settlement by the General Accounting Office, from the Federal Hospital Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period.

(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1395x(w)(2) of this title, to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this subchapter for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1395x(w)(2) of this title shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable. (As amended Dec. 31, 1975, Pub. L. 94–182, title I, § 112(a)(2), 89 Stat. 1055.)

AMENDMENTS

1975—Pub. L. 94–182 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–182 effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after Dec. 31, 1975, see section 112(d) of Pub. L. 94–182, set out as note under section 1395x of this title.

§ 1395h. Use of public agencies or private organizations to facilitate payment to providers of services.

(a) If any group or association of providers of services wishes to have payments under this part to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Secretary is authorized to enter into an agreement with such agency or organization providing for the determination by such agency or organization (subject to the provisions of section 1395*oo* of this title and to such review by the Secretary as may be provided for by the agreement) of the amount of the payments required pursuant to this part to be made to such providers, and for the making of such payments by such agency or organization to such providers. Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as hospitals, extended care facilities, or home health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Secretary, and serve as a channel of communication from providers to the Secretary; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part; and (C) to perform such other functions as are necessary to carry out this subsection.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 243(b), 86 Stat. 1422.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603 inserted reference to the provisions of section 1395*oo* of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 applicable with respect to cost reports of providers of services for accounting periods ending on or after June 30, 1973, see section 243(c) of Pub. L. 92–603, set out as a note under section 1395*oo* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c–14, 1395u, 1395mm, 1395*oo* of this title.

§ 1395i. Federal Hospital Insurance Trust Fund.

(a) There is hereby created on the books of the Treasury of the United States a trust fund to be

known as the "Federal Hospital Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1966, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 132(d), 86 Stat. 1361.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603 inserted "such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and" following "consist of" and preceding "such amounts" in the provisions preceding par. (1).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 applicable with respect to gifts and bequests received after Oct. 30, 1972, see section 132(f) of Pub. L. 92–603, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 418, 426a, 1395b–1, 1395gg of this title.

§ 1395i–1. Same; authorization of appropriations.

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subd. (1) in the main edition, is act Aug. 29, 1935, ch. 812, 49 Stat. 967, as amended, which was amended in its entirety and completely revised by Pub. L. 93–445, Oct. 16, 1974, 88 Stat. 1305, eff. Jan. 1, 1975. The Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974 and is set out as section 231 et seq. of Title 45, Railroads. For transitional provisions leading to coverage of the Railroad Retirement Act of 1974, see sections 201 to 210 of Pub. L. 93–445, set out as notes under section 231 of Title 45.

§ 1395i–2. Hospital insurance benefits for uninsured individuals not otherwise eligible.

(a) Individuals eligible to enroll.

Every individual who—

(1) has attained the age of 65,

(2) is enrolled under part B of this subchapter,

(3) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this section, and

(4) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

(b) Time, manner, and form of enrollment.

An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

(c) Period of enrollment; scope of coverage.

The provisions of section 1395p of this title (except subsection (f) thereof), section 1395q of this title, subsection (c) of section 1395r of this title, and subsections (f) and (h) of section 1395s of this title shall apply to persons authorized to enroll under this section except that—

(1) individuals who meet the conditions of subsection (a) (1), (3), and (4) of this section on or before the last day of the seventh month after the month in which this section is enacted may enroll under this part and (if not already so enrolled) may also enroll under part B during an initial general enrollment period which shall begin on the first day of the second month which begins after the date on which this section is enacted and shall end on the last day of the tenth month after the month in which this Act is enacted;

(2) in the case of an individual who first meets the conditions of eligibility under this section on or after the first day of the eighth month after the month in which this section is enacted, the initial enrollment period shall begin on the first day of the third month before the month in which he first becomes eligible and shall end 7 months later;

(3) in the case of an individual who enrolls pursuant to paragraph (1) of this subsection, entitlement to benefits shall begin on—

(A) the first day of the second month after the month in which he enrolls,

(B) July 1, 1973, or

(C) the first day of the first month in which he meets the requirements of subsection (a) of this section,

whichever is the latest;

(4) termination of coverage under this section by the filing of notice that the individual no longer wishes to participate in the hospital insurance program shall take effect at the close of the month following the month in which such notice is filed;

(5) an individual's entitlement under this section shall terminate with the month before the first month in which he becomes eligible for hospital insurance benefits under section 426 of this title or section 426a of this title; and upon such termination, such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such first month the application required to establish such entitlement; and

(6) termination of coverage for supplementary medical insurance shall result in simultaneous termination of hospital insurance benefits for uninsured individuals who are not otherwise entitled to benefits under this chapter.

(d) Monthly premiums.

(1) The monthly premium of each individual for each month in his coverage period before July 1974 shall be $33.

(2) The Secretary shall, during the last calendar quarter of each year, beginning in 1973, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be equal to $33, multiplied by the ratio of (A) the inpatient hospital deductible for such next year, as promulgated under section 1395e(b)(2) of this title, to (B) such deductible promulgated for 1973.

Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or if midway between multiples of $1 to the next higher multiple of $1.

(e) Contract or other arrangement for payment of monthly premiums.

Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) of this section may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or arrangement is administratively feasible.

(f) Deposit of amounts into Treasury.

Amounts paid to the Secretary for coverage under this section shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund. (Aug. 14, 1935, ch. 531, title XVIII, § 1818, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 202, 86 Stat. 1374.)

REFERENCES IN TEXT

The month in which this section is enacted, referred to in the text, is October, 1972.

The month in which this Act is enacted, referred to in the text, probably means October, 1972.

The date on which this section is enacted, referred to in the text, is Oct. 30, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395p, 1395*ff*, 1395gg of this title.

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 426, 1395b–1, 1395i–2, 1395y, 1395*ff*, 1395*ll*, 1395mm, 1395pp, 1396a, 1396b of this title; title 45 section 228s–3.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 1–267 of the District of Columbia Code.

§ 1395j. Establishment of supplementary medical insurance program for the aged and disabled.

There is hereby established a voluntary insurance program to provide medical insurance benefits in accordance with the provisions of this part for aged and disabled individuals who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 201 (a)(3)(B), 86 Stat. 1371.)

AMENDMENTS

1972—Pub. L. 92–603 substituted "aged and disabled individuals" for "individuals 65 years of age or over".

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR NONREIMBURSABLE SERVICES PROVIDED BY OPTOMETRISTS FOR PROSTHETIC LENSES FOR PATIENTS WITH APHAKIA

Pub. L. 94–182, title I, § 109, Dec. 31, 1975, 89 Stat. 1053, provided that: "The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section [Dec. 31, 1975] a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act [this part] for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 213.

§ 1395k. Scope of benefits; definitions.

(a) The benefits provided to an individual by the insurance program established by this part shall consist of—

* * * * *

(2) entitlement to have payment made on his behalf (subject to the provisions of this part) for—

* * * * *

(B) medical and other health services furnished by a provider of services or by others under arrangement with them made by a provider of services, excluding—

(i) physician services except where furnished by—

(I) a resident or intern of a hospital, or

(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1395x (b) of this title (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), unless either clause (A) or (B) of paragraph (7) of such section is met, and

(ii) services for which payment may be made pursuant to section 1395n(b)(2) of this title; and

(C) outpatient physical therapy services, other than services to which the next to last sentence of section 1395x(p) of this title applies.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 227(e)(1), 251(a)(4), 86 Stat. 1406, 1445.)

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL; STUDIES, REPORTS, AND ANALYSIS TO CONGRESSIONAL COMMITTEES; EFFECTIVE DATES

Pub. L. 93–233, § 15(a)(2), Dec. 31, 1973, 87 Stat. 966, provided:

"Notwithstanding any other provision of law, the provisions of section 1832(a)(2)(B)(i) of the Social Security Act [subsec. (a)(2)(B)(i) of this section] shall, subject to subsection (b) of this section [set out in italicized note under section 1395x of this title], for the period with respect to which this paragraph is applicable, be administered as if subclause II of such section reads as follows:

"'(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861(b) [section 1395x(b)(6) of this title] (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), where the conditions specified in paragraph (7) of such section

[section 1395x(b)(7) of this title] are met and'."

For provisions respecting studies, reports, and analysis to congressional committees, and effective dates, see section 15(b)–(d) of Pub. L. 93–233, set out in italicized note under section 1395x of this title.

AMENDMENTS

1972—Subsec. (a)(2)(B). Pub. L. 92–603, § 227(e)(1), added provisions relating to medical and other health services performed by a physician to a patient in a hospital which has an approved teaching program.

Subsec. (a)(2)(C). Pub. L. 92–603, § 251(a)(4), added ", other than services to which the next to last sentence of section 1395x(p) of this title applies".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 251(a)(4) of Pub. L. 92–603 applicable with respect to services furnished on or after July 1, 1973, see section 251(d)(1) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Amendment of section by section 227(e)(1) of Pub. L. 92–603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92–603, set out as a note under section 1395x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395*l*, 1395n, 1395x, 1395gg, 1395mm of this title; title 26 section 213.

§ 1395*l*. Payment of benefits.

(a) Amounts.

Except as provided in section 1395mm of this title, and subject to the succeeding provisions of this section, there shall be paid from the Federal Supplementary Medical Insurance Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part, amounts equal to—

(1) in the case of services described in section 1395k(a)(1) of this title—80 percent of the reasonable charges for the services; except that (A) an organization which provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be paid 80 percent of the reasonable cost of services for which payment may be made under this part on behalf of individuals enrolled in such organization in lieu of 80 percent of the reasonable charges for such services if the organization undertakes to charge such individuals no more than 20 percent of such reasonable cost plus any amounts payable by them as a result of subsection (b) of this section, (B) with respect to expenses incurred for radiological or pathological services for which payment may be made under this part, furnished to an inpatient of a hospital by a physician in the field of radiology or pathology, the amounts paid shall be equal to 100 percent of the reasonable charges for such services, (C) with respect to expenses incurred for those physicians' services for which payment may be made under this part that are described in section 1395y(a)(4) of this title, the amounts paid shall be subject to such limitations as may be prescribed by regulations, and (D) with respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the amounts paid shall be equal to 100 percent of the negotiated rate for such tests (as determined pursuant to subsection (g) of this section); and

(2) in the case of services described in section 1395k(a)(2) of this title—with respect to home health services, 100 percent, and with respect to other services, 80 percent of—

(A) the lesser of (i) the reasonable cost of such services, as determined under section 1395x(v) of this title, or (ii) the customary charges with respect to such services; or

(B) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1395f(b)(2) of this title; or

(C) if such services are services to which the next to last sentence of section 1395x(p) of this title applies, the reasonable charges for such services.

(b) Deductible provision.

Before applying subsection (a) of this section with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred expenses from which benefits payable under subsection (a) of this section are determinable) shall be reduced by a deductible of $60; except that (1) the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year and applied toward such individual's deductible under this section for such preceding year, and (2) such total amount shall not include expenses incurred for radiological or pathological services furnished to such individual as an inpatient of a hospital by a physician in the field of radiology or pathology. The total amount of the expenses incurred by an individual as determined under the preceding sentence shall, after the reduction specified in such sentence, be further reduced by an amount equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during the calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

* * * * *

(f) Payment for purchase and rental of durable medical equipment.

(1) In the case of the purchase of durable medical equipment included under section 1395x(s)(6) of

this title, by or on behalf of an individual, payment shall be made in such amounts as the Secretary determines to be equivalent to payments that would have been made under this part had such equipment been rented and over such period of time as the Secretary finds such equipment would be used for such individual's medical treatment, except that (A) payment may be made in a lump sum if the Secretary finds that such method of payment is less costly or more practical than periodic payments, and (B) with respect to purchases of used equipment the Secretary is authorized to waive the 20 percent coinsurance amount applicable under subsection (a) of this section whenever the purchase price of such equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

(2) In the case of rental of durable medical equipment, the Secretary may, pursuant to agreements made with suppliers of such equipment, establish any reimbursement procedures (including payment on a lump-sum basis in lieu of prolonged rental payments) which he finds to be equitable, economical, and feasible.

(g) Physical therapy services.

In the case of services described in the next to last sentence of section 1395x(p) of this title, with respect to expenses incurred in any calendar year, no more than $100 shall be considered as incurred expenses for purposes of subsections (a) and (b) of this section.

(h) Direct laboratory billing of patients.

With respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the Secretary is authorized to establish a payment rate which is acceptable to the laboratory and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such a rate. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 204(a), 211(c)(4), 226(c)(2), 233(b), 245(d), 251(a)(2), (3), 279, 299K(a), 86 Stat. 1377, 1384, 1404, 1411, 1424, 1445, 1454, 1464.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 226(c)(2), added reference to section 1395mm of this title in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92–603, §§ 211(c)(4), 279(a), added cls. (C) and (D).

Subsec. (a)(2). Pub. L. 92–603, §§ 233(b), 251(a)(3), 299K(a), substituted subpars. (A) and (B) for provisions relating to the amount payable by reference to section 1395x(v) of this title, added subpar. (C), and in provisions preceding subpar. (A), added "with respect to home health services, 100 percent, and with respect to other services," preceding "80 percent".

Subsec. (b). Pub. L. 92–603, § 204(a), substituted "$60" for "$50".

Subsec. (f). Pub. L. 92–603, § 245(d), designated existing provisions as par. (1)(A) and added par. (1)(B) and (2).

Subsec. (g). Pub. L. 92–603, § 251(a)(2), added subsec. (g).

Subsec. (h). Pub. L. 92–603, § 279(b), added subsec. (h). Subsec. was in the original (g) and was changed to accommodate subsec. (g) as added by section 251 (a) (2) of Pub. L. 92–603.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 204(c) of Pub. 92–603 provided that: "The amendments made by this section [amending subsec. (b) of this section and section 1395n(c) of this title] shall be effective with respect to calendar years after 1972 (except that, for purposes of applying clause (1) of the first sentence of section 1833(b) of the Social Security Act [subsec. (b) of this section], such amendments shall be deemed to have taken effect on January 1, 1972)."

Amendment of subsec. (a)(1) of this section by section 211(c)(4) of Pub. L. 92–603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92–603, set out as a note under section 1395f of this title.

Amendment of section by section 226(c)(2) of Pub. L. 92–603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92–603, set out as a note under section 1395mm of this title.

Amendment of subsec. (a)(2) by section 233(b) of Pub. L. 92–603 applicable to services furnished by hospitals, extended care facilities, and home health agencies in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92–603, set out as a note under section 1395f of this title. See, also, Pub. L. 93–233, § 16, Dec. 31, 1973, 87 Stat. 967, set out as a note under section 1395f of this title.

Amendment by section 251(a)(2), (3) of Pub. L. 92–603 applicable with respect to services furnished on or after July 1, 1973, see section 251(d)(1) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Section 299K(b) provided that: "The amendment made by subsection (a) [amending subsec. (a)(2) of this section] shall apply to services furnished by home health agencies in accounting periods beginning after December 31, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395n, 1395cc, 1395mm of this title; title 26 section 213.

§ 1395n. Procedure for payment of claims of providers of services.

(a) Except as provided in subsections (b), (c), and (e) of this section, payment for services described in section 1395k(a)(2) of this title furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc(a) of this title, and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that, where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year; and

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

* * * * *

(C) in the case of outpatient physical therapy services, (i) such services are or were required because the individual needed physical therapy services, (ii) a plan for furnishing such services has been established, and is periodically re-

viewed, by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and

(D) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.

* * * * *

(c) Notwithstanding the provisions of this section and sections 1395k, 1395*l*, and 1395cc(a)(1)(A) of this title, a hospital may, subject to such limitations as may be prescribed by regulations, collect from an individual the customary charges for services specified in section 1395x(s) of this title and furnished to him by such hospital as an outpatient, but only if such charges for such services do not exceed the applicable supplementary medical insurance deductible, and such customary charges shall be regarded as expenses incurred by such individual with respect to which benefits are payable in accordance with section 1395*l*(a)(1) of this title. Payments under this subchapter to hospitals which have elected to make collections from individuals in accordance with the preceding sentence shall be adjusted periodically to place the hospital in the same position it would have been had it instead been reimbursed in accordance with section 1395*l*(a)(2) of this title.

* * * * *

(e) For purposes of services (1) which are inpatient hospital services by reason of paragraph (7) of section 1395x(b) of this title or for which entitlement exists by reason of clause (II) of section 1395k(a)(2)(B)(i) of this title, and (2) for which the reasonable cost thereof is determined under section 1395x(v)(1)(D) of this title, payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1395cc of this title, and

(2) the Secretary has received written assurances that such payment will be used by such fund solely for the improvement of care to patients in such hospital or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged provision will be made for return for any moneys incorrectly collected).

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 204(b), 227(e)(2), 251(b)(2), 281(f), 283(b), 86 Stat. 1377, 1406, 1445, 1456).

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 227(e)(2)(A), added reference to subsec. (e) of this section in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92–603, § 281(f), placed a 3-year time limitation on the time within which a written request for payment is filed, with provision for reduction of the limit to 1 year.

Subsec. (a)(2)(C). Pub. L. 92–603, § 251(b)(2), substituted "because the individual needed physical therapy services" for "because the individual needed physical therapy services on an outpatient basis".

Subsec. (a)(2)(D). Pub. L. 92–603, § 283(b), added subsec. (a)(2)(D).

Subsec. (c). Pub. L. 92–603, § 204(b), substituted "the applicable supplementary medical insurance deductible" for "$50".

Subsec. (e). Pub. L. 92–603, 227(e)(2)(B), added subsec. (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 effective with respect to calendar years after 1972, see section 204(c) of Pub. L. 92–603, set out as a note under section 1395*l* of this title.

Amendment of section by section 227(e)(2) of Pub. L. 92–603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Amendment of subsec. (a)(2)(C) by section 251(b)(2) of Pub. L. 92–603 applicable with respect to services furnished on or after Oct. 30, 1972, see section 251(d)(2) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Amendment of subsec. (a)(1) of this section by section 281(f) of Pub. L. 92–603 to apply in the case of services furnished (or deemed to have been furnished) after 1970, see section 281(g) of Pub. L. 92–603, set out as a note under section 1395gg of this title.

Section 283(c) of Pub. L. 92–603 provided that: "The provisions of this section [enacting subsec. (a)(2)(D) of this section and amending section 1395x(p) of this title] shall apply with respect to services rendered after December 31, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395k, 1395m, 1395x, 1395cc of this title; title 26 section 213.

§ 1395*o*. Eligible individuals.

Every individual who—

(1) is entitled to hospital insurance benefits under part A, or

(2) has attained age 65 and is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part,

is eligible to enroll in the insurance program established by this part. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 201(c)(1), 86 Stat. 1372.)

AMENDMENTS

1972—Pub. L. 92–603 designed former par. (2)(B) as par. (1), former par. (1) as introductory clause in par. (2), and former pars. (2)(A) (i) and (ii) as pars. (2) (A) and (B), and omitted "(A)" following "(2)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395p, 1395q, 1395r, 1395v of this title; title 26 section 213.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1–267 of the District of Columbia Code.

§ 1395p. Enrollment periods.

* * * * *

(b) Limitations.

No individual may enroll under this part more than twice.

(c) Initial general enrollment period; eligible individuals before March 1, 1966.

In the case of individuals who first satisfy paragraph (1) or (2) of section 1395o of this title before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after July 30, 1965 and shall end on May 31, 1966. For purposes of this subsection and subsection (d) of this section, an individual who has attained age 65 and who satisfies paragraph (1) of section 1395o of this title but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A.

(d) Same; eligible individuals on or after March 1, 1966.

In the case of an individual who first satisfies paragraph (1) or (2) of section 1395o of this title on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1395q of this title as though he had attained such age at that time).

* * * * *

(f) Individuals deemed enrolled in the medical insurance program.

Any individual—

(1) who is eligible under section 1395o of this title to enroll in the medical insurance program by reason of entitlement to hospital insurance benefits as described in paragraph (1) of such section, and

(2) whose initial enrollment period under subsection (d) of this section begins after March 31, 1973, and

(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

(g) Commencement of enrollment period.

All of the provisions of this section shall apply to individuals satisfying subsection (f) of this section, except that—

(1) in the case of an individual who satisfies subsection (f) of this section by reason of entitlement to disability insurance benefits described in section 426(a)(2)(B) of this title, his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th consecutive month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1395r(e) of this title) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 402 or 423 of this title on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 402 of this title during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 402 of this title on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) of this section but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section).

(h) Waiver of enrollment period requirements where individual's rights were prejudiced by administrative error or inaction.

In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1395i–2 of this title is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 201(c)(2), 206(a), 259(a), 260, 86 Stat. 1372, 1378, 1448.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–603, § 260, struck out provisions preventing the enrollment under this part more than three years after the first opportunity for such enrollment.

Subsec. (c). Pub. L. 92–603, § 201(c)(2)(A), (B), substituted "paragraph (1) or (2)" for "paragraphs (1) and (2)", and substituted provisions relating to the treatment of an individual who has attained age 65 and who satisfies paragraph (1) of section 1395o of this title but not paragraph (2) of such section, for provisions relating to the treatment of an individual who satisfies paragraph (2) of section 1395o of this title solely by reason of subparagraph (B) thereof.

Subsec. (d). Pub. L. 92–603, § 201(c)(2)(C), substituted "paragraph (1) or (2)" for "paragraphs (1) and (2)".

Subsecs. (f), (g). Pub. L. 92–603, § 206(a), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 92–603, § 259(a), added subsec. (h).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 259(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [enacting subsec. (h) of this section] shall be effective as of July 1, 1966."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i-2, 1395q, 1395r, 1395v, 1395gg of this title; title 26 section 213.

§ 1395q. Coverage period.

(a) Commencement.

The period during which an individual is entitled to benefits under the insurance program established by this part (hereinafter referred to as his "coverage period") shall begin on whichever of the following is the latest:

(1) July 1, 1966 or (in the case of a disabled individual who has not attained age 65) July 1, 1973; or

(2)(A) in the case of an individual who enrolls pursuant to subsection (d) of section 1395p of this title before the month in which he first satisfies paragraph (1) or (2) of section 1395o of this title, the first day of such month, or

(B) in the case of an individual who enrolls pursuant to such subsection (d) in the month in which he first satisfies such paragraph, the first day of the month following the month in which he so enrolls, or

(C) in the case of an individual who enrolls pursuant to such subsection (d) in the month following the month in which he first satisfies such paragraph, the first day of the second month following the month in which he so enrolls, or

(D) in the case of an individual who enrolls pursuant to such subsection (d) more than one month following the month in which he satisfies such paragraph, the first day of the third month following the month in which he so enrolls, or

(E) in the case of an individual who enrolls pursuant to subsection (e) of section 1395p of this title, the July 1 following the month in which he so enrolls; or

(3)(A) in the case of an individual who is deemed to have enrolled on or before the last day of the third month of his initial enrollment period, the first day of the month in which he first meets the applicable requirements of section 1395o of this title or July 1, 1973, whichever is later, or

(B) in the case of an individual who is deemed to have enrolled on or after the first day of the fourth month of his initial enrollment period, as prescribed under subparagraphs (B), (C), (D), and (E) of paragraph (2) of this subsection.

(b) Continuation.

An individual's coverage period shall continue until his enrollment has been terminated—

(1) by the filing of notice that the individual no longer wishes to participate in the insurance program established by this part, or

(2) for nonpayment of premiums.

The termination of a coverage period under paragraph (1) shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed. The termination of a coverage period under paragraph (2) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period.

Where an individual who is deemed to have enrolled for medical insurance pursuant to section 1395p(f) of this title files a notice before the first day of the month in which his coverage period begins advising that he does not wish to be so enrolled, the termination of the coverage period resulting from such deemed enrollment shall take effect with the first day of the month the coverage would have been effective and such notice shall not be considered a disenrollment for the purposes of section 1395p(b) of this title. Where an individual who is deemed enrolled for medical insurance benefits pursuant to section 1395p(f) of this title files a notice requesting termination of his deemed coverage in or after the month in which such coverage becomes effective, the termination of such coverage shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed.

(c) Termination.

In the case of an individual satisfying paragraph (1) of section 1395o of this title whose entitlement to hospital insurance benefits under part A is based on a disability rather than on his having attained the age of 65, his coverage period (and his enrollment under this part) shall be terminated as of the close of the last month for which he is entitled to hospital insurance benefits.

(d) Payment of expenses incurred during coverage period.

No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to him, is a coverage period. (As amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(3), 206 (b), (c), 257(a), 86 Stat. 1373, 1378, 1447.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-603, § 201(c)(3)(A), added "or (in the case of a disabled individual who has not attained age 65) July 1, 1973" following "July 1, 1966".

Subsec. (a)(2). Pub. L. 92-603, § 201(c)(3)(B), substituted in subpar. (A) "paragraph (1) or (2)" for "paragraphs (1) and (2)" and in subpars. (B)-(D) "paragraph" for "paragraphs".

Subsec. (a)(3). Pub. L. 92-603, § 206(b), added subsec. (a)(3).

Subsec. (b). Pub. L. 92-603, §§ 206(c), 257(a), added provisions relating to an individual who is deemed to have enrolled for medical insurance pursuant to section 1395p(f) of this title and an individual who is deemed enrolled for medical insurance benefits pursuant to section 1395p(f) of this title and struck out provisions limiting the allowable grace period to 90 days and added provision for the extension of such period of up to 180 days where failure to pay premiums is due to good cause.

Subsec. (c). Pub. L. 92-603, § 202(c)(3)(C), added subsec. (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 92-603, § 201(c)(3)(C), redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 257(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending subsec. (b) of this section] shall apply with respect to nonpayment of premiums which become due and payable on or after the date of the enactment of this Act [Oct. 30, 1972] or which became payable within the 90-day period immediately preceding such date; and for purposes of such amendments any premium which became due and payable within such 90-day period shall be considered a premium becoming due and payable on the date of the enactment of this Act [Oct. 30, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i–2, 1395p of this title; title 26 section 213.

§ 1395r. Amount of premiums.

* * * * *

(b)(1) The monthly premium of each individual enrolled under this part for each month after 1967 and before July 1, 1973, shall be the amount determined under paragraph (2).

(2) The Secretary shall, during December 1968 and of each year ending on or before December 31, 1971, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates to be necessary so that the aggregate premiums for such 12-month period will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for such 12-month period. In estimating aggregate benefits payable for any period, the Secretary shall include an appropriate amount for a contingency margin. Whenever the Secretary, pursuant to the preceding sentence, promulgates the dollar amount which shall be applicable for premiums for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of premiums so promulgated.

(c)(1) The Secretary shall, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such 12-month period. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

(2) The monthly premium of each individual enrolled under this part for each month after June 1973 shall, except as provided in subsection (d) of this section, be the amount determined under paragraph (3).

(3) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium shall be equal to the smaller of—

(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that 12-month period, or

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph or, in the case of the determination made in December 1971, such rate promulgated under subsection (b)(2) of this section multiplied by the ratio of (i) the amount in column IV of the table which, by reason of the law in effect at the time the promulgation is made, will be in effect as of May 1 next following such determination appears (or is deemed to appear) in section 415(a) of this title on the line which includes the figure "750" in column III of such table to (ii) the amount in column IV of the table which appeared (or was deemed to appear) in section 415(a) of this title on the line which included the figure "750" in column III as of May 1 of the year in which such determination is made.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

(4) The Secretary shall also, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such 12-month period with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

(d) In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to subsection (c) or (d) of section 1395p of this title), the monthly premium determined under subsection (b) or (c) of this section shall be increased by 10 percent of the monthly premium so determined for each full 12 months (in the same continuous period of eligibility) in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account (1) the months which elapsed between the close of his initial enrollment period and the close of the enrollment period

in which he enrolled, plus (in the case of an individual who enrolls a second time) (2) the months which elapsed between the date of the termination of his first coverage period and the close of the enrollment period in which he enrolled for the second time. Any increase in an individual's monthly premium under the first sentence of this subsection with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have.

(e) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

(f) For purposes of subsection (d) of this section (and section 1395p(g)(1) of this title), an individual's "continuous period of eligibility" is the period beginning with the first day on which he is eligible to enroll under section 1395o of this title and ending with his death; except that any period during all of which an individual satisfied paragraph (1) of section 1395o of this title and which terminated in or before the month preceding the month in which he attained age 65 shall be a separate "continuous period of eligibility" with respect to such individual (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this section). (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 201(c)(4), (5), 203(a)–(d), 86 Stat. 1373, 1376, 1377; Dec. 31, 1975, Pub. L. 94–182, title I, § 104(a), 89 Stat. 1052.)

AMENDMENTS

1975—Subsec. (c)(3). Pub. L. 94–182 substituted "May 1" for "June 1" wherever appearing therein.

1972—Subsec. (b)(1). Pub. L. 92–603, § 203(a), added "and before July 1, 1973" following "1967"

Subsec. (b)(2). Pub. L. 92–603, § 203(b), substituted "ending on or before December 31, 1971" for "thereafter".

Subsec. (c). Pub. L. 92–603, § 203(c), added subsec. (c). Former subsec. (c) was redesignated as (d) and amended.

Subsec. (d). Pub. L. 92–603, §§ 201(c)(4), 203(c), (d)(1), redesignated former subsec. (c) as (d), and, as so redesignated, inserted reference to subsec. (c) following reference to subsec. (b), added "(in the same continuous period of eligibility)" following "for each full 12 months", and added provisions relating to any increase in an individual's monthly premium under the first sentence of this subsection. Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 92–603, §§ 201(c)(5), 203(c), added subsec. (e) which has been redesignated as (f). Former subsec. (d) was redesignated as (e).

Subsec. (f). Pub. L. 92–603, § 203(c), (d)(2), redesignated former subsec. (e) as (f), and, as so redesignated, substituted "subsection (d)" for "subsection (c)".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 104(b) of Pub. L. 94–182 provided that: "The amendments made by subsection (a) [amending subsec. (c)(3) of this section] shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act [subsec. (c)(3) of this section] after the date of the enactment of this Act [Dec. 31, 1975]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i–2, 1395p, 1395v, 1395w, 1395mm of this title; title 26 section 213.

§ 1395s. Payment of premiums.

(a)(1) In the case of an individual who is entitled to monthly benefits under section 402 or 423 of this title, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c) of this section) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 402 or 423 of this title which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(b)(1) In the case of an individual who is entitled to receive for a month an annuity under the Railroad Retirement Act of 1974 (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title), his monthly premiums under this part shall (except as provided in subsection (c) of this section) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(c) If an individual to whom subsection (a) or (b) of this section applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(d)(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of Title 5 or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) of this section applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) of this section applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such

times as the Civil Service Commission may determine. The Civil Service Commission shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of Title 5 may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(e) In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) of this section applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

(f) Amounts paid to the Secretary under subsection (c) or (e) of this section shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

(g) In the case of an individual who participates in the insurance program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(h) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1395v of this title is applicable, subsections (a), (b), (c), and (d) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1395v(d) of this title. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 201(c)(6), 263(a)–(c), (d)(1)–(3), 86 Stat. 1373, 1448, 1449; Oct. 16, 1974, Pub. L. 93–445, title III, § 306, 88 Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b)(1), is classified to section 231 et seq. of Title 45, Railroads.

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93–445 substituted "under the Railroad Retirement Act of 1974" for "or pension under the Railroad Retirement Act of 1937".

1972—Subsec. (a)(1). Pub. L. 92–603, §§ 201(c)(6)(A), 263(a), substituted "subsections (b)(1) and (c)" for "subsection (d)" and added reference to section 423 of this title.

Subsec. (a)(2). Pub. L. 92–603, § 201(c)(6)(B), added reference to section 423 of this title.

Subsec. (b)(1). Pub. L. 92–603, § 263(b), inserted "(whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title)" after "1937" and substituted "subsection (c)" for "subsection (d)".

Subsec. (c). Pub. L. 92–603, § 263(c), struck out former subsec. (c) covering individuals entitled both to monthly benefits under section 402 of this title and to an annuity or pension under the Railroad Retirement Act of 1937 and redesignated former subsec. (d) as (c).

Subsec. (d). Pub. L. 92–603, § 263(c), redesignated former subsec. (e) as (d). Former subsec. (d) redesignated as (c).

Subsec. (e). Pub. L. 92–603, § 263(c), (d)(1), redesignated former subsec. (f) as (e) and in subsec. (e) as so redesignated, substituted "subsection (c)" for "subsection (d)". Former subsec. (e) redesignated as (d).

Subsec. (f). Pub. L. 92–603, § 263(c), (d)(2), redesignated former subsec. (g) as (f) and in subsec. (f) as so redesignated, substituted "subsections (c) or (e)" for "subsections (d) or (f)". Former subsec. (f) redesignated as (e) and amended.

Subsec. (g). Pub. L. 92–603, § 263(c), redesignated former subsec. (h) as (g). Former subsec. (g) redesignated as (f) and amended.

Subsec. (h). Pub. L. 92–603, § 263(c), (d)(3), redesignated former subsec. (i) as (h) and in subsec. (h) as so redesignated substituted "(c) and (d)" for "(c), (d), and (e)". Former subsec. (h) redesignated as (g).

Subsec. (i). Pub. L. 92–603, § 263(c), redesignated former subsec. (i) as subsec. (h).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 263(f) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and sections 1395t and 1395u of this title] with respect to collection of premiums shall apply to premiums becoming due and payable after the fourth month following the month in which this Act is enacted [Oct. 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 428, 1395i–2, 1396t of this title; title 26 section 213.

§ 1395t. Federal Supplementary Medical Insurance Trust Fund.

(a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Supplementary Medical Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

* * * * *

(h) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Civil Service Commission in making deductions pursuant to section 1395s(d) of this title. During each fiscal year, or after the close of such fiscal year, the Civil Service Commission shall certify to the Secretary the amount of the costs it incurred in making such deductions, and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee.

(i) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Railroad Retirement Board for services performed pursuant to section 1395s(b)(1) and section 1395u(g) of this title. During each fiscal year or after the close of such fiscal year, the Railroad Retirement Board shall certify to the Secretary the amount of the costs it incurred in performing such services and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee. (As amended Oct. 30, 1972, Pub. L. 92–603, title I, § 132(e), title II, § 263(d)(4), (e), 86 Stat. 1361, 1449.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 132(e), inserted "such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and" following "consist of" and preceding "such amounts".

Subsec. (h). Pub. L. 92–603, § 263(d)(4), substituted "1395s(d)" for "1395s(e)".

Subsec. (i). Pub. L. 92–603, § 263(e), added subsec. (i).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a) of this section by section 132(e) of Pub. L. 92–603 applicable with respect to gifts and bequests received after Oct. 30, 1972, see section 132(f) of Pub. L. 92–603, set out as a note under section 401 of this title.

Amendment by section 263(d)(4) and (e) of Pub. L. 92–603 with respect to collection of premiums applicable to premiums becoming due and payable after the fourth month following the month of enactment of Pub. L. 92–603 which was approved on Oct. 30, 1972, see section 263(f) of Pub. L. 92–603, set out as a note under section 1395s of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395b–1, 1395gg of this title; title 26 section 213.

§ 1395u. Use of carriers or administration of benefits.

(a) In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for providers of services and other persons furnishing services to such individual, and with a view to furthering coordination of the administration of the benefits under part A and under this part, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1395h of this title are in effect, which will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions which involve payments for physicians' services on a reasonable charge basis, the Secretary shall to the extent possible enter into such contracts:

* * * * *

(b)(1) * * *

* * * * *

(3) Each such contract shall provide that the carrier—

* * * * *

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1395gg(f) of this title) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1395y of this title, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter (except in the case of physicians' services and ambulance service furnished as described in section 1395y(a)(4) of this title, other than for purposes of section 1395gg(f) of this title);

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more, when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

* * * * *

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services. No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical

data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any fiscal year beginning after June 30, 1973, may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this subchapter and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

* * * * *

(5) No payment under this part for a service provided to any individual shall (except as provided in section 1395gg of this title) be made to anyone other than such individual or (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) the physician or other person who provided the service, except that payment may be made (A) to the employer of such physician or other person if such physician or other person is required as a condition of his employment to turn over his fee for such service to his employer, or (B) (where the service was provided in a hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service.

* * * * *

(g) The Railroad Retirement Board shall, in accordance with such regulations as the Secretary may prescribe, contract with a carrier or carriers to perform the functions set out in this section with respect to individuals entitled to benefits as qualified railroad retirement beneficiaries pursuant to section 426(a) of this title and section 231f(d) of Title 45. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 211(c)(3), 224(a), 227(e)(3), 236(a), 258(a), 262(a), 263(d)(5), 281(d), 86 Stat. 1384, 1395, 1407, 1414, 1447–1449, 1455; Oct. 16, 1974, Pub. L. 93–445, title III, § 307, 88 Stat. 1358; Dec. 31, 1975, Pub. L. 94–182, title I, § 101(a), 89 Stat. 1051.)

AMENDMENTS

1975—Subsec. (b)(3). Pub. L. 94–182 added provisions relating to raising for the fiscal year beginning July 1, 1975 inadequate prevailing charge levels for services of physicians in certain localities.

1974—Subsec. (g). Pub. L. 93–445 substituted "section 231f(d) of Title 45" for "section 228s–2(b) of Title 45".

1972—Subsec. (a). Pub. L. 92–603, § 227(e)(3), substituted "which involve payments for physicians' services on a reasonable charge basis" for "which involve payments for physicians' services".

Subsec. (b)(3). Pub. L. 92–603, §§ 244(a), 258(a) added provisions relating to the determination of reasonableness of physician charges, medical services, supplies, and equipment and for the extension of time for filing claims for supplementary medical insurance benefits where the delay is due to administrative error, at the end of the par.

Subsec. (b)(3)(B)(ii). Pub. L. 92–603, §§ 211(c)(3), 281(d), designated existing provisions as subcl. (I), added subcl. II, added exception in the case of services furnished as described in section 1395y(a)(4) of this title, other than for purposes of section 1395gg(f) of this title.

Subsec. (b)(3)(C). Pub. L. 92–603, § 262(a), added provisions setting a $100 minimum amount on claims to establish entitlement to a hearing.

Subsec. (b)(5). Pub. L. 92–603, § 236(a), added subsec. (b)(5).

Subsec. (g). Pub. L. 92–603, § 263(d)(5), added subsec. (g).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b)(3)(B)(ii) of this section by section 211(c)(3) of Pub. L. 92–603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92–603, set out as a note under section 1395f of this title.

Amendment of section by section 227(e)(3) of Pub. L. 92–603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Section 236(c) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (b) of this section] shall apply with respect to bills submitted and requests for payments made after the date of the enactment of this Act [Oct. 30, 1972]. The amendments made by subsection (b) [amending section 1396a of this title] shall be effective January 1, 1973 (or earlier if the State plan so provides)."

Section 258(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3) of this section] shall apply with respect to bills submitted and requests for payment made after March 1968."

Section 262(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3)(C) of this section] shall apply with respect to

hearings requested (under the procedures established under section 1842(b)(3)(C) of the Social Security Act [subsec. (b)(3)(C) of this section]) after the date of the enactment of this Act [Oct. 30, 1972]."

Amendment by section 263(d)(5) of Pub. L. 92–603 with respect to collection of premiums applicable to premiums becoming due and payable after the fourth month following the month of enactment of Pub. L. 92–603 which was approved on Oct. 30, 1972, see section 263(f) of Pub. L. 92–603, set out as a note under section 1395s of this title.

Amendment of subsec. (b)(3)(B)(ii) of this section by section 282(d) of Pub. L. 92–603 to apply in the case of notices sent to individuals after 1968, see section 281(g) of Pub. L. 92–603, set out as a note under section 1395gg of this title.

PREVAILING CHARGE LEVELS FOR FISCAL YEAR BEGINNING JULY 1, 1975

Section 101(b) of Pub. L. 94–182 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3) of this section] shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act [this part] with a carrier designated pursuant to section 1842 of such Act [this section] and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1822(b)(3) of such Act [subsec. (b)(3) of this section]; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section [Dec. 31, 1975], the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) [Dec. 31, 1975] as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1."

REPORT BY THE HEALTH INSURANCE BENEFITS ADVISORY COUNCIL ON THE METHODS OF REIMBURSEMENT OF PHYSICIANS FOR THEIR SERVICES

Section 224(b) of Pub. L. 92–603 provided that: "The Health Insurance Benefits Advisory Council established under section 1867 of the Social Security Act [section 1395dd of this title] shall conduct a study of the methods of reimbursement for physicians' services under Medicare for the purpose of evaluating their effects on (1) physicians' fees generally, (2) the extent of assignments accepted by physicians, and (3) the share of total physician-fee costs which the Medicare program does not pay and which the beneficiary must assume. The Council shall report the results of such study to the Congress no later than January 1, 1973, together with a presentation of alternatives to the present methods and its recommendations as to the preferred method."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c–14, 1395t, 1395v, 1395mm, 1395pp, 1396b of this title; title 26 section 213.

§ 1395v. State agreements for coverage of eligible individuals who are receiving money payments under public assistance programs or are eligible for medical assistance; continuation of State agreements for coverage of certain individuals respecting supplemental security income.

* * * * *

(b) An agreement entered into with any State pursuant to subsection (a) of this section may be applicable to either of the following coverage groups:

* * * * *

except as provided in subsection (g) of this section, there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under subchapter II of this chapter or who is entitled to receive an annuity under the Railroad Retirement Act of 1974. Effective January 1, 1974, and subject to section 1396a(f) of this title, the Secretary shall, at the request of any State not eligible to participate in the State plan program established under subchapter XVI of this chapter, continue in effect the agreement entered into under this section with such State subject to such modification as the Secretary may by regulations provide to take account of the termination of any plans of such State approved under subchapters I, X, XIV, and XVI and the establishment of the supplemental security income program under subchapter XVI of this chapter.

* * * * *

(As amended Dec. 31, 1973, Pub. L. 93–233, § 18(*l*), 87 Stat. 970; Oct. 16, 1974, Pub. L. 93–445, title III, § 308, Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b), is classified to section 231 et seq. of Title 45, Railroads.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–445 substituted "under the Railroad Retirement Act of 1974" for "or pension under the Railroad Retirement Act of 1937".

1973—Subsec. (b). Pub. L. 93–233 provided for continuation of State agreements for coverage of certain individuals in connection with establishment of supplemental security income program.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective Jan. 1, 1974, see section 18(z–3)(1) of Pub. L. 93–233, set out as a note under section 1320b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395s, 1396a of this title; title 26 section 213.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1–267 of the District of Columbia Code.

§ 1395w. Appropriations to cover Government contributions and contingency reserve.

(a) There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund—

(1)(A) a Government contribution equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee age 65 and over as determined under section 1395r(c)(1) of this title for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1395r(c)(3) of this title, to

(ii) the dollar amount of the premium per enrollee for such month, plus

(B) a Government contribution equal to the aggregate premiums payable for a month for enrollees under age 65 under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee under age 65 as determined under section 1395r(c)(4) of this title for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1395r(c)(3) of this title, to

(ii) the dollar amount of the premium per enrollee for such month.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92-603, title II, § 203(e), 86 Stat. 1377.)

AMENDMENT

1972—Subsec. (a)(1). Pub. L. 92-603 designated existing provisions as subsec. (a)(1)(A), and, as so designated, substituted provisions relating to government contributions equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, and multiplied by the specified ratio, for provisions relating to government contributions equal to the aggregate premiums payable under this part and deposited in the Trust Fund, and added subsec. (a)(1)(B).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 203(e) of Pub. L. 92-603 provided in part that the amendment of subsec. (a)(1) by Pub. L. 92-603 shall be effective with respect to enrollee premiums payable for months after June 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 213.

PART C.—MISCELLANEOUS PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 426 of this title; title 45 section 231f.

§ 1395x. Definitions.

For purposes of this subchapter—

(a) Spell of illness.

The term "spell of illness" with respect to any individual means a period of consecutive days—

* * * * *

(2) ending with the close of the first period of 60 consecutive days thereafter on each of which he is neither an inpatient of a hospital nor an inpatient of a skilled nursing facility.

(b) Inpatient hospital services.

The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients; and

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

excluding, however—

(4) medical or surgical services provided by a physician, resident, or intern; and

(5) the services of a private-duty nurse or other private-duty attendant.

Paragraph (4) shall not apply to services provided in a hospital by—

(6) an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association or, in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, or, in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of dentistry, approved by the Council on Dental Education of the American Dental Association, or in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of podiatry, approved by the Council on Podiatry Education of the American Podiatry Association; or

(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), unless (A) such inpatient is a private patient (as defined in regulations), or (B) the hospital establishes that during the two-year period ending December 31, 1967, and each year thereafter all inpatients have been regularly billed by the hospital for services rendered by physicians and reasonable efforts have been made to collect in full from all patients and payment of reasonable charges (including applicable deductibles and coinsurance) has been regularly collected in full or in substantial part from at least 50 percent of all inpatients.

* * * * *

(e) Hospital.

The term "hospital" (except for purposes of sections 1395f(d), 1395f(f), and 1395n(b) of this title, subsection (a)(2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

* * * * *

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times; except that until January 1, 1979, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of twenty-four-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided, during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

* * * * *

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing;

(8) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section; and

(9) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. For purposes of sections 1395f(d) and 1395n(b) of this title (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections), section 1395f(f)(2) of this title, and subsections (i) and (n) of this section, such term includes any institution which (i) meets the requirements of paragraphs (5) and (7) of this subsection, (ii) is not primarily engaged in providing the services described in subsection (j)(1)(A) of this section and (iii) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of subsection (r) of this section, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. For purposes of section 1395f(f)(1) of this title, such term includes an institution which (i) is a hospital for purposes of sections 1395f(d), 1395f(f)(2), and 1395n(b) of this title, and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals. Notwithstanding the preceding provisions of this subsection, such term shall not, except for purposes of subsection (a)(2) of this section, include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g) of this section) or unless it is a psychiatric hospital (as defined in subsection (f) of this section). The term "hospital" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations. For provisions deeming certain requirements of this subsection to be met in the case of accredited institutions, see section 1395bb of this title.

(f) Psychiatric hospital.

The term "psychiatric hospital" means an institution which—

* * * * *

(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e) of this section;

* * * * *

(g) Tuberculosis hospital.

The term "tuberculosis hospital" means an institution which—

* * * * *

(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e) of this section;

* * * * *

(h) Extended care services.

The term "extended care services" means the following items and services furnished to an inpatient of a skilled nursing facility and (except as provided in paragraphs (3) and (6)) by such skilled nursing facility—

* * * * *

(3) physical, occupational, or speech therapy furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

(4) medical social services;

(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the skilled nursing facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

* * * * *

(7) such other services necessary to the health of the patients as are generally provided by skilled nursing facilities;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(i) Post-hospital extended care services.

The term "post-hospital extended care services" means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the skilled nursing facility (A) within 14 days after discharge from such hospital, or (B) within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, or (C) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing facility care would not be medically appropriate within 14 days after discharge from

a hospital; and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other skilled nursing facility.

(j) Skilled nursing facility.

The term "skilled nursing facility" means (except for purposes of subsection (a)(2) of this section) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section) with one or more hospitals having agreements in effect under section 1395cc of this title and which—

* * * * *

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing;

(10) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section;

(11) supplies full and complete information to the Secretary or his delegate as to the identity (A) of each person who has any direct or indirect ownership interest of 10 per centum or more in such skilled nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such skilled nursing facility, (B) in case a skilled nursing facility is organized as a corporation, of each officer and director of the corporation, and (C) in case a skilled nursing facility is organized as a partnership, of each partner; and promptly reports any changes which would affect the current accuracy of the information so required to be supplied;

(12) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each patient's need for skilled nursing facility care);

(13) meets such provisions of the Life Safety Code of the National Fire Protection Association (23d edition, 1973) as are applicable to nursing homes; except that the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a nursing home, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities; and

(15) [1] meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1395z of this title), except that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution. Notwithstanding any other provision of law, all information concerning skilled nursing facilities required by this subsection to be filed with the Secretary shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under subchapters XVIII and XIX of this chapter;

except that such term shall not (other than for purposes of subsection (a)(2) of this section) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term "skilled nursing facility" also includes an institution described in paragraph (1) of subsection (y) of this section, to the extent and subject to the limitations provided in such subsection. To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if he finds that—

(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein.

(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

(C) such facility (i) has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

(k) Utilization review.

A utilization review plan of a hospital or skilled nursing facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this subchapter and if it provides—

* * * * *

(2) for such review to be made by either (A) a staff committee of the institution composed of

[1] So in original. Par. redesignated as (15) by section 246(b)(2) of Pub. L. 92-603 notwithstanding the absence of a par. (14).

two or more physicians, with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and skilled nursing facilities in the locality, or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Secretary;

* * * * *

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or skilled nursing facility where, because of the small size of the institution, or (in the case of a skilled nursing facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection. If the Secretary determines that the utilization review procedures established pursuant to subchapter XIX of this chapter are superior in their effectiveness to the procedures required under this section, he may, to the extent that he deems it appropriate, require for purposes of this subchapter that the procedures established pursuant to subchapter XIX of this chapter be utilized instead of the procedures required by this section.

(*l*) Agreements for transfer between skilled nursing facilities and hospitals.

A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between the hospital and the skilled nursing facility whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any skilled nursing facility which does not have such an agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under section 1395aa of this title is in effect (or, in the case of a State in which no such agency has an agreement under section 1395aa of this title, by the Secretary) to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this subchapter.

(m) Home health services.

The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

* * * * *

(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or skilled nursing facility, or at a rehabilitation center which meets such standards as may be prescribed in the regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A),

but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(n) Post-hospital home health services.

The term "post-hospital home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient for not less than 3 consecutive days or (if later) within one year after his most recent discharge from a skilled nursing facility of which he was an inpatient entitled to payment under part A for post-hospital extended care services, but only if the plan covering the home health services (as described in subsection (m) of this section) is established within 14 days after his discharge from such hospital or skilled nursing facility.

(*o*) Home health agency.

The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

* * * * *

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

(5) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section; and

(6) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who furnished services by such agency or organization;

* * * * *

(p) Outpatient physical therapy services.

The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

(1) who is under the care of a physician (as defined in subsection (r)(1) of this section), and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

(3) any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital; and

(4) any such service—

* * * * *

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary.

The term "outpatient physical therapy services" also includes physical therapy services furnished an individual by a physical therapist (in his office or in such individual's home) who meets licensing and other standards prescribed by the Secretary in regulations, otherwise than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, if the furnishing of such services meets such conditions relating to health and safety as the Secretary may find necessary. In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility. The term "outpatient physical therapy services" also includes speech pathology services furnished by a provider of services, a clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection.

(q) Physicians' services.

The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services described in subsection (b)(6) of this section).

(r) Physician.

The term "physician", when used in connection with the performance of any function or action, means (1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1301(a)(7) of this title), (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw or (B) the reduction of any fracture of the jaw or any facial bone, or (C) the certification required by section 1395f(a)(2)(E) of this title, (3) except for the purposes of section 1395f(a), section 1395n of this title, and subsections (j), (k), (m), and (o) of this section, a doctor of podiatry or surgical chiropody, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform as such by the State in which he performs them, (4) a doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to establishing the necessity for prosthetic lenses, or (5) a chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of subsections (s)(1) and (s)(2)(A) of this section and only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation demonstrated by X-ray to exist) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided. For the purposes of section 1395y(a)(4) of this title and subject to the limitations and conditions provided in the previous sentence, such term includes a doctor of one of the arts, specified in such previous sentence, legally authorized to practice such art in the country in which the inpatient hospital services (referred to in such section 1395y(a)(4) of this title) are furnished.

(s) Medical and other health services.

The term "medical and other health services" means any of the following items or services:

* * * * *

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices; and

* * * * *

(u) Provider of services.

The term "provider of services" means a hospital, skilled nursing facility, or home health agency, or, for purposes of section 1395f(g) and section 1395n (e) of this title, a fund.

(v) Reasonable cost; semi-private accommodations.

(1) (A) The reasonable cost of any services shall be the cost actually incurred, excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonable based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this subchapter, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (i) take into account both direct and indirect costs of providers of services (excluding therefrom any such costs, including standby costs, which are determined in accordance with regulations to be unnecessary in the efficient delivery of services covered by the insurance programs established under this subchapter) in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered services to individuals covered by the insurance programs established by this subchapter will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (ii) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

(B) Such regulations in the case of extended care services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

(C) Where a hospital has an arrangement with a medical school under which the faculty of such school provides services at such hospital, an amount not in excess of the reasonable cost of such services to the medical school shall be included in determining the reasonable cost to the hospital of furnishing services—

(i) for which payment may be made under part A, but only if

(I) payment for such services as furnished under such arrangement would be made under part A to the hospital had such services been furnished by the hospital, and

(II) such hospital pays to the medical school at least the reasonable cost of such services to the medical school, or

(ii) for which payment may be made under part B, but only if such hospital pays to the medical school at least the reasonable cost of such services to the medical school.

(D) Where (i) physicians furnish services which are either inpatient hospital services (including services in conjunction with the teaching programs of such hospital by reason of paragraph (7) of subsection (b) of this section or for which entitlement exists by reason of clause (II) of section 1395k (a)(2)(B) (i) and (ii) of this title such hospital (or medical school under arrangement with such hospital) incurs no actual cost in the furnishing of such services, the reasonable cost of such services shall (under regulations of the Secretary) be deemed to be the cost such hospital or medical school would have incurred had it paid a salary to such physicians rendering such services approximately equivalent to the average salary paid to all physicians employed by such hospital (or if such employment does not exist, or is minimal in such hospital, by similar hospitals in a geographic area of sufficient size to assure reasonable inclusion of sufficient physicians in development of such average salary).

(E) Such regulations may, in the case of skilled nursing facilities in any State, provide for the uses of rates, developed by the State in which such facilities are located, for the payment of the cost of skilled nursing facility services furnished under the State's plan approved under subchapter XIX of this chapter (and such rates may be increased by the Secretary on a class or size of institution or on a geographical basis by a percentage factor not in excess of 10 percent to take into account determinable items or services or other requirements under this subchapter not otherwise included in the computation of such State rates), if the Secretary finds that such rates are reasonably related to (but not necessarily limited to) analyses undertaken by such State of costs of care in comparable facilities in such State; except that the foregoing provisions of this subparagraph shall not apply to any skilled nursing facility in such State if—

(i) such facility is a distinct part of or directly operated by a hospital, or

(ii) such facility operates in a close, formal satellite relationship (as defined in regulations of the Secretary) with a participating hospital or hospitals.

Notwithstanding the previous provisions of this paragraph in the case of a facility specified in clause (ii) of this subparagraph, the reasonable cost of any services furnished by such facility as determined by the Secretary under this subsection shall not exceed 150 percent of the costs determined by the application of this subparagraph (without regard to such clause (ii)).

* * * * *

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this subchapter, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or skilled nursing facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) If a provider of services furnishes items or services to an individual which are in excess of or more expensive than the items or services determined to be necessary in the efficient delivery of needed health services and charges are imposed for such more expensive items or services under the authority granted in section 1395cc(a)(2)(B)(ii) of this title, the amount of payment with respect to such items or services otherwise due such provider in any fiscal period shall be reduced to the extent that such payment plus such charges exceed the cost actually incurred for such items or services in the fiscal period in which such charges are imposed.

(5)(A) Where physical therapy services, occupational therapy services, speech therapy services, or other therapy services or services of other health-related personnel (other than physicians) are furnished under an arrangement with a provider of services or other organization, specified in the first sentence of subsection (p) of this section the amount included in any payment to such provider or other organization under this subchapter as the reasonable cost of such services (as furnished under such arrangements) shall not exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the provider or other organization) to the person performing them if they had been performed in an employment relationship with such provider or other organization (rather than under such arrangement) plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such therapy) incurred by such person, as the Secretary may in regulations determine to be appropriate.

(B) Notwithstanding the provisions of subparagraph (A), if a provider of services or other organization specified in the first sentence of subsection (p) of this section requires the services of a therapist on a limited part-time basis, or only to perform intermittent services, the Secretary may make payment on the basis of a reasonable rate per unit of service, even though such rate is greater per unit of time than salary related amounts, where he finds that such greater payment is, in the aggregate, less than the amount that would have been paid if such organization had employed a therapist on a full- or part-time salary basis.

(6) For purposes of this subsection, the term, "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

(7) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a–1 of this title.

(w) Arrangements for certain services; payments pursuant to arrangements for utilization review activities.

(1) The term "arrangements" is limited to arrangements under which receipt of payment by the hospital, skilled nursing facility, or home health agency (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this subchapter, discharges, the liability of such individual or any other person to pay for the services.

(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of subchapter XI of this chapter with respect to services furnished by a hospital to patients insured under part A of this subchapter or entitled to have payment made for such services under a State plan approved under subchapter V or XIX of this chapter, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.

* * * * *

(y) Post-hospital extended care in Christian Science skilled nursing facilities.

(1) The term "skilled nursing facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only (except for purposes of subsection (a)(2) of this section) with respect to items and services ordinarily furnished by such an institution to inpatients, and pay-

ment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

(2) Notwithstanding any other provision of this subchapter, payment under part A may not be made for services furnished an individual in a skilled nursing facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a spell of illness to have such services treated as post-hospital extended care services for purposes of such part; and payment under part A may not be made for post-hospital extended care services—

(A) furnished an individual during such spell of illness in a skilled nursing facility to which paragraph (1) applies after—

(i) such services have been furnished to him in such a facility for 30 days during such spell, or

(ii) such services have been furnished to him during such spell in a skilled nursing facility to which such paragraph does not apply; or

(B) furnished an individual during such spell of illness in a skilled nursing facility to which paragraph (1) does not apply after such services have been furnished to him during such spell in a skilled nursing facility to which such paragraph applies.

(3) The amount payable under part A for post-hospital extended care services furnished an individual during any spell of illness in a skilled nursing facility to which paragraph (1) applies shall be reduced by a co-insurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which he is furnished such services in such a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1395e(a)(3) of this title).

(4) For purposes of subsection (i) of this section, the determination of whether services furnished by or in an institution described in paragraph (1) constitute post-hospital extended care services shall be made in accordance with and subject to such conditions, limitations, and requirements as may be provided in regulations.

(z) Institutional planning.

An overall plan and budget of a hospital, skilled nursing facility, or home health agency shall be considered sufficient if it—

(1) provides for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared, in connection with any budget, an item-by-item identification of the components of each type of anticipated expenditure or income);

(2) provides for a capital expenditures plan for at least a 3-year period (including the year to which the operating budget described in subparagraph (1) is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $100,000 related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment which would, under generally accepted accounting principles, be considered capital items;

(3) provides for review and updating at least annually; and

(4) is prepared, under the direction of the governing body of the institution or agency, by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff (if any) of the institution or agency.

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 211(b), (c)(2), 221(c)(4), 223(a)–(d), (f), 227(a), (c), (d)(1), (f), 234(a)–(f), 237(c), 244(c), 246(b), 248, 249(b), 251(a)(1), (b)(1), (c), 252(a), 256(b), 264(a), 265, 267, 273(a), 276(a), 278(a)(4)–(15), (b)(6), (10), (11), 283(a), 86 Stat. 1383, 1384, 1389, 1393, 1394, 1404–1407, 1412, 1413, 1416, 1423–1426, 1445–1447, 1449–1454, 1456; Dec. 31, 1975, Pub. L. 94–182, title I, §§ 102, 106(a), 112(a)(1), 89 Stat. 1051, 1052, 1055.)

PAYMENT FOR SERVICE OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL; STUDIES, REPORTS AND ANALYSIS TO CONGRESSIONAL COMMITTEES, EFFECTIVE DATES

Pub. L. 93–233, § 15(a)(1), (b)–(d), Dec. 31, 1973, 87 Stat. 965, as amended by Pub. L. 93–368, § 7, Aug. 7, 1974, 88 Stat. 422, provided:

"(a)(1) Notwithstanding any other provision of law, the provisions of section 1861(b) of the Social Security Act [subsec. (b) of this section], shall, subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if paragraph (7) of such section [subsec. (b)(7) of this section] read as follows:

"'(7) physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title [this subchapter] for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title [this subchapter]'."

"(b) The provisions of subsection (a) [set out as italicized notes under this section and section 1395k of this title] shall not be deemed to render improper any determination of payment under title XVIII of the Social Security Act [this subchapter] for any service provided prior to the enactment of this Act [Dec. 31, 1973].

"(c)(1) The Secretary of Health, Education, and Welfare shall arrange for the conduct of a study or studies concerning (A) appropriate and equitable methods of reimbursement for physicians' services under titles [subchapters] XVIII and XIX of the Social Security Act [this chapter] in hospitals which have a teaching program approved as specified in section 1861(b)

(6) of such Act [subsec. (b)(6) of this section], (B) the extent to which funds expended under such titles [subchapters] are supporting the training of medical specialties which are in excess supply, (C) how such funds could be expended in ways which support more rational distribution of physician manpower both geographically and by specialty, (D) the extent to which such funds support or encourage teaching programs which tend to disproportionately attract foreign medical graduates, and (E) the existing and appropriate role that part of such funds which are expended to meet in whole or in part the cost of salaries of interns and residents in teaching programs approved as specified in section 1861(b)(6) of such Act [subsec. (b)(6) of this section].

"(2) The studies required by paragraph (1) shall be the subject of an interim report thereon submitted not later than March 1, 1975, and a final report not later than March 1, 1976. Such reports shall be submitted to the Secretary, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives, simultaneously.

"(3) The Secretary shall request the National Academy of Sciences to conduct such studies under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

"(4) If the National Academy of Sciences is unwilling to conduct the studies required under this section, under such an arrangement with the Secretary, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such studies and prepare and submit the reports thereon as provided in paragraph (2).

"(5) The Social Security Administration shall study the interim report called for in paragraph (2) and shall submit its analysis of such interim report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than June 1, 1975. The Social Security Administration shall study and submit its analysis of the final report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by June 1, 1976.

"(d) The provisions of subsection (a) [set out as italicized notes under this section and section 1395k of this title] shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to July 1, 1976."

AMENDMENTS

1975—Subsec. (e)(5). Pub. L. 94–182, § 102, substituted "January 1, 1979" for "January 1, 1976".

Subsec. (j)(13). Pub. L. 94–182, § 106(a), substituted "23d edition, 1973" for "21st edition, 1967".

Subsec. (w). Pub. L. 94–182, § 112(a)(1), designated existing provisions as par. (1) and added par. (2).

1972—Subsec. (a)(2). Pub. L. 92–603, § 278(a)(4), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (b)(6). Pub. L. 92–603, §§ 227(a), 276(a), redesignated existing provisions as subsec. (b)(6) and in subsec. (b)(6) as so designated inserted reference to services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of podiatry, approved by the Council on Podiatry Education of the American Podiatry Association.

Subsec. (b)(7). Pub. L. 92–603, § 227(a), added par. (7).

Subsec. (e). Pub. L. 92–603, § 211(b), inserted reference to section 1395f(f) of this title in the provisions preceding par. (1), inserted reference to sections 1395f(f)(2) of this title following "For purposes of sections 1395f(d) and 1395n(b) of this title (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections),", and added provisions for accreditation by the Joint Commission on Accreditation of Hospitals.

Subsec. (e)(8). Pub. L. 92–603, § 234(a) added subsec. (e)(8). Former par. (8) renumbered as par. (9).

Subsec. (e)(9). Pub. L. 92–603, §§ 234(a), 244(c), redesignated former subsec. (e)(8) as (e)(9) and struck out provisions requiring that other requirements not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals.

Subsec. (f)(2). Pub. L. 92–603, § 234(b), added reference to par. (9) of subsec. (e) of this section.

Subsec. (g)(2). Pub. L. 92–603, § 234(c), added reference to par. 9 of subsec. (e) of this section.

Subsec. (h). Pub. L. 92–603, § 278(a)(5), substituted "skilled nursing facility" for "extended care facility", "skilled nursing facilities" for "extended care facilities" and "a" for "an".

Subsec. (i). Pub. L. 92–603, §§ 248, 278(a)(6), (b)(10), extended the class of persons qualifying to be deemed as having been an inpatient in a hospital immediately before transfer therefrom by designating as clause (A) the existing requirement that the person have been admitted to the skilled nursing facility within 14 days after discharge from such hospital and adding clauses (B) and (C) and substituted "skilled nursing facility" for "extended care facility".

Subsec. (j). Pub. L. 92–603, § 278(a)(7), substituted "skilled nursing facility" for "extended care facility" in the provisions preceding par. (1).

Subsec. (j)(10). Pub. L. 92–603, § 234(d), added par. (10). Former par. (10) was redesignated par. (11) by section 234(d)(2) of Pub. L. 92–603 and again redesignated par. (15) by section 246(b)(2) of Pub. L. 92–603.

Subsec. (j)(11)–(13). Pub. L. 92–603, § 246(b)(3), added pars. (11)–(13).

Subsec. (j)(15). Pub. L. 92–603, §§ 234(d), 246(b)(2), (4), 265, 267, redesignated former par. (10) as par. (11), amended par. (11) as thus redesignated by the addition of provisions that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution, redesignated such par. (11) as thus amended as par. (15), and added provision that all information concerning skilled nursing facilities required to be filed with the Secretary be made available to Federal and state employees for purposes consistent with the effective administration of programs established under subchapters XVIII and XIX and added provision for the waiver of the registered nurse requirement in skilled nursing facilities in rural areas.

Subsec. (k). Pub. L. 92–603, §§ 237(c), 278(a)(8), added provisions authorizing the Secretary to utilize the procedures established under subchapter XIX of this chapter if such procedures were determined to be superior in their effectiveness and substituted "skilled nursing facility" for "extended care facility", "skilled nursing facilities" for "extended care facilities", and "a" for "an".

Subsec. (l). Pub. L. 92–603, § 278(a)(9), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (m)(7). Pub. L. 92–603, § 278(a)(10), substituted "skilled nursing facility" for "extended care facility".

Subsec. (n). Pub. L. 92–603, § 278(a)(11), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (o). Pub. L. 92–603, § 234(e), added par. (5), and redesignated former par. (5) as par. (6).

Subsec. (p). Pub. L. 92–603, §§ 251(a)(1), (b)(1), added provisions covering physical therapy services of a licensed physical therapist other than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, added "In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility", and extended the definition of "outpatient physical therapy services" to include outpatient speech pathology services.

Subsec. (q). Pub. L. 92–603, § 227(f), substituted "subsection (b)(6) of this section" for "the last sentence of subsection (b) of this section" in the parenthetical phrase.

Subsec. (r). Pub. L. 92–603, §§ 211(c)(2), 256(b), 264(a), 273(a), inserted "or (C) the certification required by section 1395x(a)(2)(E) of this title," added provision so as to include doctors in one of the specified arts legally authorized to practice such art in the country in which inpatient hospital services referred to in section 1395y(a)(4) are furnished, added clause (4) covering doctors of optometry who are legally authorized to practice optometry by the State in which they perform such functions, but only with respect to establishing the necessity for prosthetic lenses, and added clause (5) providing for the inclusion of chiropractor services.

Subsec. (s)(8). Pub. L. 92–603, § 252(a), inserted (including colostomy bags and supplies directly related to colostomy care)" after "organ".

Subsec. (u). Pub. L. 92–603, §§ 227(d)(1), 278(a)(12), substituted "skilled nursing facility, or home health agency, or, for purposes of sections 1395(g) and 1395n(e) of this title, a fund." for "extended care facility, or home health agency.".

Subsec. (v)(1). Pub. L. 92–603, §§ 223(a), (b), (c), (d), 227(c)(1), (2), (3), (4), 249(b), 278(b)(11), added definition of the costs of services, added provision that the regulation for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonably based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this subchapter, added parenthetical provisions covering exclusion of costs, substituted "the necessary costs of efficiently delivering covered services covered by the insurance programs" for "the costs with respect to individuals covered by the insurance programs", designated existing provisions as subpars. (A) and (B), and added subpars. (C), (D), and (E), and substituted "skilled nursing facilities" for "extended care facilities".

Subsec. (v)(3). Pub. L. 92–603, § 278(a)(13), substituted "skilled nursing facility" for "extended care facility".

Subsec. (v)(4). Pub. L. 92–603, § 223(f), added subsec. (v)(4). Former subsec. (v)(4) redesignated subsec. (v)(6).

Subsec. (v)(5). Pub. L. 92–603, § 251(c), added subsec. (v)(5).

Subsec. (v)(6). Pub. L. 92–603, §§ 223(f), 251(c), redesignated former subsec. (v)(4) as (v)(6).

Subsec. (v)(7). Pub. L. 92–603, §§ 221(c)(4), 223(b), 251(c), added subsec. (v)(7).

Subsecs. (w), (y). Pub. L. 92–603, § 278(a)(14), (15), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (z). Pub. L. 92–603, §§ 234(b), 278(b)(6), added subsec. (z) and in such subsec. (z) substituted "skilled nursing facility" for "extended care facility".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106(b) of Pub. L. 94–182 provided that: "Subject to subsection (c) [enacting provision set out as a note hereunder], the amendment made by subsection (a) [amending subsec. (j)(13) of this section] shall be effective on the first day of the sixth month which begins after the date of enactment of this Act [Dec. 31, 1975]."

Section 112(d) of Pub. L. 94–182 provided that: "The amendments made by this section [amending subsec. (w) of this section, sections 1320c–17, and 1395g of this title] shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act [Dec. 31, 1975]."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (e) and (r) of this section by section 211 (b) and (c)(2) of Pub. L. 92–603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92–603, set out as a note under section 1395f of this title.

Section 223(h) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and section 1395cc of this title] shall be effective with respect to accounting periods beginning after December 31, 1972."

Section 227(g) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and sections 1395f, 1395k, 1395n, 1395u, and 1395cc of this title] shall apply with respect to accounting periods beginning after June 30, 1973."

Section 234(i) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and sections 1395f, 1395z, and 1395bb of this title] shall apply with respect to any provider of services for fiscal years (of such provider) beginning after the fifth month following the month in which this Act is enacted [Oct. 1972]."

Section 246(c) of Pub. L. 92–603 provided that: "The amendments made by this section [adding pars. (11)–(13) of subsec. (j), redesignating former par. (11) of subsec. (j) as par. (15), and amending such par. (15), and section 1396(a)(28) of this title] shall be effective July 1, 1973."

Section 251(d) of Pub. L. 92–603, as amended by Pub. L. 93–233, § 17(a), Dec. 31, 1973, 87 Stat. 967, provided that:

"(1) The amendments made by subsection (a) [amending subsec. (p) of this section to cover physical therapy services of a licensed physical therapist other than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, and amending sections 1395*l* and 1395k(a)(2)(C) of this title] shall apply with respect to services furnished on or after July 1, 1973.

"(2) The amendments made by subsection (b) [amending subsec. (p) of this section by adding provision for the inclusion of physical therapy services which meet the requirements of the first sentence except that they are furnished to an individual as an inpatient of a hospital or extended care facility, and amending section 1395n(a)(2)(C) of this title] shall apply with respect to services furnished on or after the date of enactment of this Act [Oct. 30, 1972].

"(3) The amendments made by subsection (c) [enacting par (5) of subsec. (v) of this section] shall be effective with respect to accounting periods beginning after the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act [subsec. (v)(5) of this section]."

Section 252(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (s)(8) of this section] shall apply only with respect to items furnished on or after the date of the enactment of this Act [Oct. 30, 1972]."

Amendment of subsec. (r) of this section by section 256(b) of Pub. L. 92–603 applicable with respect to admissions occurring after the second month following the month of enactment of Pub. L. 92–603 which was approved on Oct. 30, 1972, see section 256(d) of Pub. L. 92–603, set out as a note under section 1395f of this title.

Section 264(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [adding cl. (4) to subsec. (r) of this section] shall apply only with respect to services performed on or after the date of the enactment of this Act [Oct. 30, 1972]."

Section 273(b) of Pub. L. 92–603 provided that: "The amendments made by this section [adding cl. (5) to subsec. (r) of this section] shall be effective with respect to services furnished after June 30, 1973."

Section 276(b) of Pub. L. 92–603 provided that: "The amendment made by this section [amending subsec. (b)(6) of this section] shall apply with respect to accounting periods beginning after December 31, 1972."

Amendment of subsec. (p) of this section by section 283(a) of Pub. L. 92–603 to apply with respect to services rendered after Dec. 31, 1972, see section 283(c) of Pub. L. 92–603, set out as a note under section 1395n of this title.

COMPLIANCE WITH THE LIFE SAFETY CODE OR STATE FIRE AND SAFETY CODE

Section 106(c) of Pub. L. 94–182 provided that:" Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act [subsec. (j)(13) of this section] on the day preceding the first day referred to in subsection (b) [enacting provisions set out as a note under this section] shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) [subchapters XVIII and XIX of this chapter] to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section [amending subsec. (j)(13) of this section]."

HOME HEALTH SERVICES; GRANTS FOR ESTABLISHMENT, OPERATION, STAFFING, ETC., OF PUBLIC AND NONPROFIT PRIVATE AGENCIES AND ENTITIES; PROCEDURES; PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 94–63, title VI, § 602, July 29, 1975, 89 Stat. 346, provided that:

"(a)(1) For the purpose of demonstrating the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(*o*) of the Social Security Act) [subsec. *o* of this section] which will provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section] in areas in which such services are not otherwise available, the Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or t..e expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health servcies and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or obth.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall prescribe by regulation.

"(4) Payment of grants under this subsection may be made in advance or by way of reimbursement or in installments as the Secretary may determine.

"(5) There are authorized to be appropriated $8,000,000 for fiscal year 1976 for payments under grants under this subsection.

"(b)(1) The Secretary of Health, Education, and Welfare may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section].

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulations, prescribe.

"(3) Payment of grants under this section may be made in advance or by way of reimbursement, or in installments, as the Secretary shall determine.

"(4) There is authorized to be appropriated $2,000,000 for fiscal year 1976 for payments under grants under this subsection."

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

Section 245(a)–(c) of Pub. L. 92–603 provided that:

"(a) The Secretary is authorized to conduct reimbursement experiments designed to eliminate unreasonable expenses resulting from prolonged rentals of durable medical equipment described in section 1861(s)(6) of the Social Security Act [subsec. (s)(6) of this section].

"(b) Such experiment may be conducted in one or more geographic areas, as the Secretary deems appropriate, and may, pursuant to agreements with suppliers, provide for reimbursement for such equipment on a lump-sum basis whenever it is determined (in accordance with guidelines established by the Secretary) that a lump-sum payment would be more economical than the anticipated period of rental payments. Such experiments may also provide for incentives to beneficiaries (including waiver of the 20 percent coinsurance amount applicable under section 1833 of the Social Security Act [section 1395*l* of this title]) to purchase used equipment whenever the purchase price is at least 25 percent less than the reasonable charge for new equipment.

"(c) The Secretary is authorized, at such time as he deems appropriate, to implement on a nationwide basis any such reimbursement procedures which he finds to be workable, desirable and economical and consistent with the purposes of this section."

PHYSICAL THERAPY SERVICES REQUIREMENTS; EFFECTIVE DATE POSTPONEMENT

Section 17(a) of Pub. L. 93–233, Dec. 31, 1973, 87 Stat. 967, provided that: "In the administration of title XVIII of the Social Security Act [this subchapter], the amount payable thereunder with respect to physical therapy and other services referred to in section 1861(v)(5)(A) of such Act (as added by section 151(c) [should read 251(c)] of the Social Security Amendments of 1972) [subsec. (v)(5)(A) of this section] shall be determined (for the period with respect to which the amendment made by such section 151(c) [251(c)] would, except for the provisions of this section, be applicable) in like manner as if the 'December 31, 1972', which appears in such subsection (d)(3) of such section 151 [251, set out as Effective Date of 1972 Amendment note hereunder], read 'the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act [subsec. (v)(5) of this section]'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247d, 254c, 705, 706, 1395d, 1395f, 1395g, 1395k, 1395*l*, 1395m, 1395n, 1395u, 1395z, 1395aa, 1395bb, 1395cc, 1395mm, 1395nn, 1395*oo*, 1396a, 1396b, 1396d, 2689e of this title; title 26 section 415.

§ 1395y. Exclusions from coverage.

(a) Notwithstanding any other provision of this subchapter, no payment may be made under part A or part B for any expenses incurred for items or services—

* * * * *

(4) which are not provided within the United States (except for inpatient hospital services furnished outside the United States under the conditions described in section 1395f(f) of this title and, subject to such conditions, limitations, and requirements as are provided under or pursuant to this subchapter, physicians services and ambulance services furnished an individual in conjunction with such inpatient hospital services but only for the period during which such inpatient hospital services were furnished);

* * * * *

(12) where such expenses are for services in connection with the care, treatment, filling, removal,

or replacement of teeth or structures directly supporting teeth, except that payment may be made under part A in the case of inpatient hospital services in connection with the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or

* * * * *

(c) Repealed. Pub. L. 94–182, title I, § 103, Dec. 31, 1975, 89 Stat. 1051.

(d) (1) No payment may be made under this subchapter with respect to any item or services furnished to an individual by a person where the Secretary determines under this subsection that such person—

(A) has knowingly and willfully made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this subchapter or for use in determining the right to a payment under this subchapter;

(B) has submitted or caused to be submitted (except in the case of a provider of services), bills or requests for payment under this subchapter containing charges (or in applicable cases requests for payment of costs to such person) for services rendered which the Secretary finds, with the concurrence of the appropriate program review team appointed pursuant to paragraph (4), to be substantially in excess of such person's customary charges (or in applicable cases substantially in excess of such person's costs) for such services, unless the Secretary finds there is good cause for such bills or requests containing such charges (or in applicable cases, such costs); or

(C) has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to paragraph (4) who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, posthospital extended care services, and home health services such determination shall be effective in the manner provided in section 1395cc(b) (3) and (4) of this title with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(4) For the purposes of paragraph (1) (B) and (C) of this subsection, and clause (F) of section 1395cc(b) (2) of this title, the Secretary shall, after consultation with appropriate State and local professional societies, the appropriate carriers and intermediaries utilized in the administration of this subchapter, and consumer representatives familiar with the health needs of residents of the State, appoint one or more program review teams (composed of physicians, other professional personnel in the health care field, and consumer representatives) in each State which shall, among other things—

(A) undertake to review such statistical data on program utilization as may be submitted by the Secretary,

(B) submit to the Secretary periodically, as may be prescribed in regulations, a report on the results of such review, together with recommendations with respect thereto,

(C) undertake to review particular cases where there is a likelihood that the person or persons furnishing services and supplies to individuals may come within the provisions of paragraph (1) (B) and (C) of this subsection or clause (F) of section 1395cc(b) (2) of this title, and

(D) submit to the Secretary periodically, as may be prescribed in regulations, a report of cases reviewed pursuant to subparagraph (C) along with an analysis of, and recommendations with respect to, such cases.

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 210, 211(c) (1), 229(a), 256(c), 86 Stat. 1382, 1384, 1408, 1447; Dec. 31, 1973, Pub. L. 93–233, § 18(k) (3), 87 Stat. 970; Oct. 26, 1974, Pub. L. 93–480, § 4(a), 88 Stat. 1454; Dec. 31, 1975, Pub. L. 94–182, title I, § 103, 89 Stat. 1051.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–182 struck out subsec. (c) prohibiting payments to Federal employees under this subchapter unless a determination and certification by the Secretary of a modification of any health benefits plan under chapter 89 of Title 5 was made which would allow a Federal employee benefits under part A or B of this subchapter.

1974—Subsec. (c). Pub. L. 93–480 substituted "January 1, 1976" for "January 1, 1975".

1973—Subsec. (a) (12). Pub. L. 93–233 substituted "the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services" for "a dental procedure where the individual suffers from impairments of such severity as to require hospitalization".

1972—Subsec. (a) (4). Pub. L. 92–603, § 211(c) (1), inserted reference to physicians' services and ambulance services furnished an individual in conjunction with emergency inpatient hospital services.

Subsec. (a) (12). Pub. L. 92–603, § 256(c), authorized payment under part A in the case of inpatient hospital services in connection with a dental procedure where the individual suffers from impairments of such severity as to require hospitalization.

Subsec. (c). Pub. L. 92–603, § 210, added subsec. (c).

Subsec. (d). Pub. L. 92–603, § 229(a), added subsec. (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective with respect to admissions subject to the provisions of section 1395(a) (2) of this title which occur after Dec. 31, 1973, see section

18(z-3)(2) of Pub. L. 93-233, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a)(4) of this section by section 211(c)(1) of Pub. L. 92-603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92-603, set out as a note under section 1395f of this title.

Amendment of subsec. (a)(12) of this section by section 256(c) of Pub. L. 92-603 applicable with respect to admissions occurring after the second month following the month of enactment of Pub. L. 92-603 which was approved on Oct. 30, 1972, see section 256(d) of Pub. L. 92-603, set out as a note under section 1395f of this title.

REPORT TO CONGRESSIONAL COMMITTEES ON IMPLEMENTATION OF CERTIFICATION REQUIREMENTS RELATING TO MODIFICATION OF HEALTH BENEFITS PLAN OR PROGRAM; FAILURE TO SUBMIT REPORT

Section 4(b) of Pub. L. 93-480 provided that: "The Civil Service Commission and the Secretary of Health, Education, and Welfare shall submit to the Committee on Post Office and Civil Service and the Committee on Ways and Means of the House of Representatives, and to the Committee on Post Office and Civil Service and the Committee on Finance of the Senate, on or before March 1, 1975, a report on the steps which have been taken, and the steps which are planned, to enable the Secretary of Health, Education, and Welfare to make the determination and certification referred to in section 1862(c) of the Social Security Act [subsec. (c) of this section]. If such report is not submitted to such committees on or before March 1, 1975, the date specified in such section (as amended by this section) shall be deemed to be July 1, 1975, rather than January 1, 1976".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c-6, 1395*l*, 1395u, 1395x, 1395cc, 1395gg, 1395*oo*, 1395pp, 1396b of this title; title 45 section 231f.

§ 1395z. Consultation with State agencies and other organizations to develop conditions of participation for providers of services.

In carrying out his functions, relating to determination of conditions of participation by providers of services, under subsections (e)(9), (f)(4), (g)(4), (j)(11), and (*o*)(6) of section 1395x of this title, the Secretary shall consult with the Health Insurance Benefits Advisory Council established by section 1395dd of this title, appropriate State agencies, and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services) in such institutions under a State plan approved under subchapter I, XVI, or XIX of this chapter, the Secretary shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision. (As amended Oct. 30, 1972, Pub. L. 92-603, title II, § 234(g)(2), 86 Stat. 1413.)

AMENDMENTS

1972—Pub. L. 92-603 substituted "subsections (e)(9), (f)(4), (g)(4), (j)(11), and (*o*)(6) of section 1395x of this title" for "subsections (e)(8), (f)(4), (g)(4), (j)(10), and (*o*)(5) of section 1395x of this title".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as a note under section 1395x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395x, 1395bb of this title; title 45 section 231f.

§ 1395aa. Use of State agencies to determine compliance by providers of services with conditions of participation.

(a) The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or skilled nursing facility, or whether an agency therein is a home health agency, or whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1395x(s) of this title, or whether a clinic, rehabilitation agency, or public health agency meets the requirements of subparagraph (A) or (B), as the case may be, of section 1395x(p)(4) of this title. To the extent that the Secretary finds it appropriate, an institution or agency which such a State (or local) agency certifies is a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1395x of this title) may be treated as such by the Secretary. Any State agency which has such an agreement may (subject to approval of the Secretary) furnish to a skilled nursing facility, after proper request by such facility, such specialized consultative services (which such agency is able and willing to furnish in a manner satisfactory to the Secretary) as such facility may need to meet one or more of the conditions specified in section 1395x(j) of this title. Any such services furnished by a State agency shall be deemed to have been furnished pursuant to such agreement. Within 90 days following the completion of each survey of any health care facility, laboratory, clinic, agency, or organization by the appropriate State or local agency described in the first sentence of this subsection, the Secretary shall make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this subchapter and (2) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

* * * * *

(c) The Secretary is authorized to enter into an agreement with any State under which the appropriate State or local agency which performs the certification function described in subsection (a) of this section will survey, on a selective sample basis (or where the Secretary finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies which would, if found to be present, adversely affect health

and safety of patients), hospitals which have an agreement with the Secretary under section 1395cc of this title and which are accredited by the Joint Commission on the Accreditation of Hospitals. The Secretary shall pay for such services in the manner prescribed in subsection (b) of this section. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 244 (a), 277, 278(a)(16), (b)(15), 299D(a), 86 Stat. 1422, 1452–1454, 1461.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 277, 278(a)(16), (b)(15), 299D(a), provided for the furnishing of specialized consultative services to skilled nursing facilities, authorized the Secretary to make public the pertinent findings of each survey within 90 days following the completion of each survey of any health care facility, etc., and substituted "skilled nursing facility" for "extended care facility".

Subsec. (c). Pub. L. 92–603, § 244(a) added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299D(c) of Pub. L. 92–603 provided that: "The provisions of this section [which amended subsec. (a) of this section and section 1396a(a)(37) of this title] shall be effective beginning January 1, 1973, or within 6 months following the enactment of this Act [Oct. 30, 1972], whichever is later.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 705, 1395x, 1395bb, 1396a of this title; title 45 section 231f.

§ 1395bb. Effect of accreditation.

(a) Except as provided in subsection (b) of this section and the second sentence of section 1395z of this title, if—

(1) an institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals, and

(2) such institution (if it is included within a survey described in section 1395aa(c) of this title) authorizes the Commission to release to the Secretary (on a confidential basis) upon his request (or such State agency as the Secretary may designate) a copy of the most current accreditation survey of such institution made by such Commission,

then, such institution shall be deemed to meet the requirements of the numbered paragraphs of section 1395x (e) of this title; except—

(3) paragraph (6) thereof, and

(4) any standard, promulgated by the Secretary pursuant to paragraph (9) thereof, which is higher than the requirements prescribed for accreditation by such Commission.

If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan (or imposes another requirement which serves substantially the same purpose) or imposes a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in paragraph (4) of this subsection, the Secretary is authorized to find that all institutions so accredited by such Commission comply also with section 1395x (e)(6) of this title or the standard described in such paragraph (4), as the case may be. In addition, if the Secretary finds that accreditation of an institution or agency by the American Osteopathic Association or any other national accreditation body provides reasonable assurance that any or all of the conditions of section 1395x (e), (j) or (o) of this title, as the case may be, are met, he may, to the extent he deems it appropriate, treat such institution or agency as meeting the condition or conditions with respect to which he made such finding.

(b) Notwithstanding any other provision of this subchapter, if the Secretary finds following a survey made pursuant to section 1395aa (c) of this title that an institution has significant deficiencies (as defined in regulations pertaining to health and safety), such institution shall, after the date of notice of such finding to the hospital and for such period as may be prescribed in regulations, be deemed not to meet the requirements of the numbered paragraphs of section 1395x (e) of this title. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 234(h), 244(b), 86 Stat. 1413, 1423.)

AMENDMENTS

1972—Pub. L. 92–603 designated existing provisions as subsec. (a) and added subsec. (b) and in subsec. (a) as redesignated inserted reference to subsec. (b) of this section in the opening provisions, redesignated existing provisions as pars. (1) and (3) and added pars. (2) and (4) and in the provisions following par. (4) added provisions for the imposition of a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in par. (4).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of section by section 234(h) of Pub. L. 92–603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92–603, set out as a note under section 1395x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395x of this title.

§ 1395cc. Agreements with providers of services.

(a)(1) Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title) shall be qualified to participate under this subchapter and shall be eligible for payments under this subchapter if it files with the Secretary an agreement—

* * * * *

(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this subchapter because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9), but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary's determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter, and

(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person.

An agreement under this paragraph with a skilled nursing facility shall be for a term of not exceeding 12 months, except that the Secretary may extend such term for a period not exceeding 2 months, where

the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this subchapter and regulations thereunder.

(2) (A) * * *

* * * * *

(B) (i) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this subchapter.

(ii) Where a provider of services customarily furnishes an individual items or services which are more expensive than the items or services determined to be necessary in the efficient delivery of needed health services under this subchapter and which have not been requested by such individual, such provider may (except with respect to emergency services) also charge such individual or other person for such more expensive items or services to the extent that the costs of (or, if less, the customary charges for) such more expensive items or services experienced by such provider in the second fiscal period immediately preceding the fiscal period in which such charges are imposed exceed the cost of such items or services determined to be necessary in the efficient delivery of needed health services, but only if—

(I) the Secretary has provided notice to the public of any charges being imposed on individuals entitled to benefits under this subchapter on account of costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under this subchapter by particular providers of services in the area in which such items or services are furnished, and

(II) the provider of services has identified such charges to such individual or other person, in such manner as the Secretary may prescribe, as charges to meet costs in excess of the cost determined to be necessary in the efficient delivery of needed health services under this subchapter.

(C) A provider of services may in accordance with its customary practice also appropriately charge any such individual for any whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished him with respect to which a deductible is imposed under section 1395e(a)(2) of this title, except that (i) any excess of such charge over the cost to such provider for the blood (or equivalent quantities of packed red blood cells, as so defined) shall be deducted from any payment to such provider under this subchapter, (ii) no such charge may be imposed for the cost of administration of such blood (or equivalent quantities of packed red blood cells, as so defined), and (iii) such charge may not be made to the extent such blood (or equivalent quantities of packed red blood cells, as so defined) has been replaced on behalf of such individual or arrangements have been made for its replacement on his behalf. For purposes of this subparagraph, whole blood (or equivalent quantities of packed red blood cells, as so defined) furnished an individual shall be deemed replaced when the provider of services is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is imposed under section 1395e(a)(2) of this title.

(D) Where a provider of services customarily furnishes items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider, notwithstanding the preceding provisions of this paragraph, may not, under the authority of subparagraph (B)(ii) of this paragraph, charge any individual or other person any amount for such items or services in excess of the amount of the payment which may otherwise be made for such items or services under this subchapter if the admitting physician has a direct or indirect financial interest in such provider.

(b) An agreement with the Secretary under this section may be terminated (and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1) of this section)—

* * * * *

(2) by the Secretary at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Secretary has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this subchapter and regulations thereunder, or (B) that such provider of services no longer substantially meets the applicable provisions of section 1395x of this title, or (C) that such provider of services has failed to provide such information as the Secretary finds necessary to determine whether payments are or were due under this subchapter and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information, or (D) that such provider has made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this subchapter or for use in determining the right to a payment under this subchapter, or (E) that such provider has submitted, or caused to be submitted, request for payment under this subchapter of amounts for rendering services substantially in excess of the costs incurred by such provider for rendering such services, or (F) that such provider has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to section 1395y(d)(4) of this title who are physicians or other professional personnel in the health care field, to be substantially in excess

of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

Any termination shall be applicable—

(3) in the case of inpatient hospital services (including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination,

* * * * *

(c)(1) Where an agreement filed under this subchapter by a provider of services has been terminated by the Secretary, such provider may not file another agreement under this subchapter unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

(2) In the case of a skilled nursing facility participating in the programs established by this subchapter and subchapter XIX of this chapter, the Secretary may enter into an agreement under this section only if such facility has been approved pursuant to section 1396 of this title, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Secretary pursuant to such section.

(d) If the Secretary finds that there is a substantial failure to make timely review in accordance with section 1395x(k) of this title of long-stay cases in a hospital or skilled nursing facility, he may, in lieu of terminating his agreement with such hospital or facility, decide that, with respect to any individual admitted to such hospital or facility after a subsequent date specified by him, no payment shall be made under this subchapter for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) after the 20th day of a continuous period of such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be. Such decision may be made effective only after such notice to the hospital, or (in the case of a skilled nursing facility) to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Secretary finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Secretary shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 223(e), (g), 227(d)(2), 229(b), 249A(b)–(d), 278(a)(17), (b)(18), 281(c), 86 Stat. 1394, 1406, 1409, 1427, 1453–1455.)

AMENDMENTS

1972—Subsec. (a)(1), Pub. L. 92–603, §§ 227(d)(2), 249A(b), 278(a)(17), (b)(18), 281(c), substituted "Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title)" for "Any provider of services", "skilled nursing facility" for "extended care facility", added provision that the agreement be for a term of not to exceed 12 months with an allowable extension of 2 months under specified circumstances, redesignated former subpar. (B) as (C) and added subpar. (B).

Subsec. (a)(2)(B). Pub. L. 92–603, § 223(e), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(2)(C). Pub. L. 92–603, § 223(g)(2), substituted "this subparagraph" for "clause (iii) of the preceding sentence".

Subsec. (a)(2)(D). Pub. L. 92–603, § 223(g)(1), added subpar. (D).

Subsec. (b). Pub. L. 92–603, §§ 229(b), 249A(c), 278(a)(17), inserted "(and in the case of an extended care facility, prior to the end of the term specified in subsection (a)(1) of this section) in the provision preceding par. (1), in par. (2), added Subpart. (D)–(F), and in par. (3), substituted "(including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to" for "(including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to such services furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after" and substituted "skilled nursing facility" for "extended care facility".

Subsec. (c). Pub. L. 92–603, § 249A(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 92–603, § 278(a)(17), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a) of this section, by section 223 (e), (g), of Pub. L. 92–603 effective with respect to accounting periods beginning after Dec. 31, 1972, see section 223(h) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Amendment of section by section 227(d)(2) of Pub. L. 92–603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Section 249A(e) of Pub. L. 92–603 provided that: "The provisions of this section [enacting section 1396 of this title and amending this section] shall be effective with respect to agreements filed with the Secretary under section 1866 of the Social Security Act [this section] by skilled nursing facilities (as defined in section 1861(j) of such Act [section 1395x(j) of this title]) before, on, or after the date of enactment of this Act [Oct. 30, 1972], but accepted by him on or after such date."

Amendment of subsec. (a)(1) of this section by section 281(c) of Pub. L. 92–603 to apply in the case of notices sent to individuals after 1968, see section 281(g) of Pub. L. 92–603, set out as a note under section 1395gg of this title.

AGREEMENTS FILED AND ACCEPTED PRIOR TO OCT. 30, 1972, DEEMED TO BE FOR SPECIFIED TERM ENDING DEC. 31, 1973

Section 249A(f) of Pub. L. 92–603 provided that: "Notwithstanding any other provision of law, any agreement, filed by a skilled nursing facility (as defined in section 1861(j) of the Social Security Act [section 1395x(j) of this title]) with the Secretary under section 1866 of such Act [this section] and accepted by him prior to the date of enactment of this Act [Oct. 30, 1972], which was in effect on such date shall be deemed to be for a specified term ending on December 31, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c–6, 1395e, 1395f, 1395n, 1395x, 1395y, 1395aa, 1395ff, 1396b of this title.

§ 1395dd. Health Insurance Benefits Advisory Council; creation; composition; appointment of members; Chairman; representative activities and interests; terms of office; compensation and travel expenses; meetings; functions.

(a) There is hereby created a Health Insurance Benefits Advisory Council which shall consist of 19 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive services. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in fields related to hospital, medical, and other health activities, persons who are representative of organizations and associations of professional personnel in the field of medicine, and at least one person who is representative of the general public. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member shall not be eligible to serve continuously for more than two terms. Members of the Advisory Council, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Advisory Council shall meet as the Secretary deems necessary, but not less than annually.

(b) It shall be the function of the Advisory Council to provide advice and recommendations for the consideration of the Secretary on matters of general policy with respect to this subchapter and subchapter XIX of this chapter. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 288, 86 Stat. 1457.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 288(a), struck out provisions relating to the establishment of special advisory professional or technical committees and the compensation of members of such committees, and provisions requiring the Secretary to call a meeting of the Advisory Council upon the request of five or more members, and added provisions requiring meetings to be held at least annually.

Subsec. (b). Pub. L. 92–603, § 288(b), substituted provisions requiring the Advisory Council to provide advice and recommendations for the Secretary on matters of general policy with respect to this subchapter and subchapter XIX of this chapter, for provisions requiring the Advisory Council to advise the Secretary on matters of general policy in the administration of this subchapter and the formulation of regulations under this subchapter, to study and make recommendations with respect to the utilization of hospital and other medical care and services for which payment is made under this subchapter, and to make an annual report to the Secretary on the performance of its functions, including any recommendations with respect thereto.

Subsec. (c). Pub. L. 92–603, § 288(c), struck out subsec. (c), which authorized the Advisory Council to engage such technical assistance as necessary to carry out its functions and required the Secretary to make available to the Advisory Council secretarial and other assistance and such pertinent data as necessary.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395z of this title; title 45 section 231f.

§ 1395ff. Determinations; appeals.

* * * * *

(b)(1) Any individual dissatisfied with any determination under subsection (a) of this section as to—

(A) whether he meets the conditions of section 426 or section 426a of this title, or

(B) whether he is eligible to enroll and has enrolled pursuant to the provisions of part B of this subchapter, or section 1395i–2 of this title, or section 1819, or

(C) the amount of benefits under part A (including a determination where such amount is determined to be zero)

shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(2) Notwithstanding the provisions of subparagraph (C) of paragraph (1) of this subsection, a hearing shall not be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $100; nor shall judicial review be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $1,000.

* * * * *

(As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 299O(a), 86 Stat. 1464.)

REFERENCES IN TEXT

Section 1819, referred to in subsec. (b)(1)(B), does not correspond to any enacted section of the Social Security Act.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–603 redesignated existing provisions as par. (1), and, as so redesignated, generally amended the conditions under which a dissatisfied individual shall be entitled to a hearing by the Secretary and to judicial review of the final decision of the Secretary after such hearing, and added par. (2).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299O(b) of Pub. L. 92–603 provided that:

"(1) The provisions of subparagraphs (A) and (B) of section 1869(b)(1) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b)(1)(A), (B) of this section], shall be effective on the date of enactment of this Act [Oct. 30, 1972].

"(2) The provisions of paragraph (2) and subparagraph (C) of paragraph (1) of section 1869(b) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b)(1)(C) and (b)(2) of this section], shall be effective with respect to any claims under

part A of title XVIII of such Act [subchapter XVIII of this chapter], filed—

"(A) in or after the month in which this Act is enacted [Oct. 1972], or

"(B) before the month in which this Act is enacted [Oct. 1972], but only if a civil action with respect to a final decision of the Secretary of Health, Education, and Welfare on such claim has not been commenced under such section 1869(b) [subsec. (b) of this section] before such month."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395pp of this title; title 45 section 231f.

§ 1395gg. Overpayments on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals.

* * * * *

(b) Where—

(1) more than the correct amount is paid under this subchapter to a provider of services or other person for items or services furnished an individual and the Secretary determines (A) that, within such period as he may specify, the excess over the correct amount cannot be recouped from such provider of services or other person, or (B) that such provider of services or other person was without fault with respect to the payment of such excess over the correct amount, or

* * * * *

proper adjustments shall be made, under regulations prescribed (after consultation with the Railroad Retirement Board) by the Secretary, by decreasing subsequent payments—

(3) to which such individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1974, as the case may be, or

(4) if such individual dies before such adjustment has been completed, to which any other individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1974, as the case may be, with respect to the wages and self-employment income or the compensation constituting the basis of the benefits of such deceased individual under subchapter II of this chapter.

As soon as practicable after any adjustment under paragraph (3) or (4) is determined to be necessary, the Secretary, for purposes of this section, section 1395i(g) of this title, and section 1395t(f) of this title, shall certify (to the Railroad Retirement Board if the adjustment is to be made by decreasing subsequent payments under the Railroad Retirement Act of 1974) the amount of the overpayment as to which the adjustment is to be made. For purposes of clause (B) of paragraph (1), such provider of services or such other person shall, in the absence of evidence to the contrary, be deemed to be without fault if the Secretary's determination that more than such correct amount was paid was made subsequent to the third year following the year in which notice was sent to such individual that such amount had been paid; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter.

(c) There shall be no adjustment as provided in subsection (b) of this section (nor shall there be recovery) in any case where the incorrect payment has been made (including payments under section 1395f(e) of this title) with respect to an individual who is without fault or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b)(4) of this section, if such adjustment (or recovery) would defeat the purposes of subchapter II or subchapter XVIII of this chapter or would be against equity and good conscience. Adjustment or recovery of an incorrect payment (or only such part of an incorrect payment as the Secretary determines to be inconsistent with the purposes of this subchapter) against an individual who is without fault shall be deemed to be against equity and good conscience if (A) the incorrect payment was made for expenses incurred for items or services for which payment may not be made under this subchapter by reason of the provisions of paragraph (1) or (9) of section 1395y of this title and (B) if the Secretary's determination that such payment was incorrect was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter.

* * * * *

(g) If an individual, who is enrolled under section 1395i-2(c) of this title or under section 1395p of this title, dies, and premiums with respect to such enrollment have been received with respect to such individual for any month after the month of his death, such premiums shall be refunded to the person or persons determined by the Secretary under regulations to have paid such premiums or if payment for such premiums was made by the deceased individual before his death, to the legal representative of the estate of such deceased individual, if any. If there is no person who meets the requirements of the preceding sentence such premiums shall be refunded to the person or persons in the priorities specified in paragraphs (2) through (7) of subsection (e) of this section. (As amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 261(a), 266, 281(a), (b), 86 Stat. 1448, 1450, 1454, 1455; Oct. 16, 1974, Pub. L. 93-445, title III, § 309, 88 Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b), is classified to section 231 et seq. of Title 45, Railroads.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-445 substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937", wherever appearing.

1972—Subsec. (b). Pub. L. 92-603, § 281(a), required that the provider of services or other person be without fault with respect to the payment of excess over the correct amount as a prerequisite to the adjusment or recovery of incorrect payments.

Subsec. (c). Pub. L. 92-603, §§ 261(a), 281(b), substituted "or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b)(4) of this section, if" for "and where", inserted reference to subchapter XVIII of this chapter, and added provisions covering the adjustment or recovery

of incorrect payments against individuals who are without fault.

Subsec. (g). Pub. L. 92–603, § 266, added subsec. (g).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 261(b) of Pub. L. 92–603 provided that: "The amendment made by subsection (a) [amending subsec. (c) of this section] shall apply with respect to waiver actions considered after the date of the enactment of this Act [Oct. 30, 1972]."

Section 281(g) of Pub. L. 92–603 provided that: "The provisions of subsection (a)(1) [enacting subsec. (b)(1)(B) of this section] shall apply with respect to notices of payment sent to individuals after the date of enactment of this Act [Oct. 30, 1972]. The provisions of subsections (a)(2), (b), (c), and (d) [amending subsecs. (b) and (c) of this section and sections 1395cc(a)(i) and 1395u(b)(3)(B)(ii) of this title] shall apply in the case of notices sent to individuals after 1968. The provisions of subsections (e) and (f) [amending sections 1395f(a)(1) and 1395n(a)(1) of this title] shall apply in the case of services furnished (or deemed to have been furnished) after 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395l, 1395t, 1395u of this title.

§ 1395ii. Application of certain provisions of subchapter II.

The provisions of sections 406 and 416(j) of this title, and of subsections (a), (d), (e), (f), (h), (i), (j), (k), and (*l*) of section 405 of this title, shall also apply with respect to this subchapter to the same extent as they are applicable with respect to subchapter II of this chapter. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 242(a), 86 Stat. 1419.)

AMENDMENTS

1972—Pub. L. 92–603 struck out reference to the provisions of section 408 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 not applicable to any acts, statements, or representations made or committed prior to Oct. 30, 1972, see section 242(d) of Pub. L. 92–603, set out as a note under section 1395nn of this title.

§ 1395kk. Administration.

(a) Except as otherwise provided in this subchapter and in the Railroad Retirement Act of 1974, the insurance programs established by this subchapter shall be administered by the Secretary. The Secretary may perform any of his functions under this subchapter directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

* * * * *

(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this subchapter, the Secretary may administer oaths and affirmations. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, § 289, 86 Stat. 1457; Oct. 16, 1974, Pub. L. 93–445, title III, § 310, 88 Stat. 1359.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (a), is classified to section 231 et seq. of Title 45, Railroads.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–445 substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937".

1972—Subsec. (c). Pub. L. 92–603 added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93–445, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 231f.

§ 1395*ll*. Studies and recommendations.

(a) The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the aged and the disabled, including studies and recommendations concerning (1) the adequacy of existing personnel and facilities for health care for purposes of the programs under parts A and B; (2) methods for encouraging the further development of efficient and economical forms of health care which are a constructive alternative to inpatient hospital care; and (3) the effects of the deductibles and coinsurance provisions upon beneficiaries, persons who provide health services, and the financing of the program.

(b) The Secretary shall make a continuing study of the operation and administration of the insurance programs under parts A and B (including a validation of the accreditation process of the Joint Commission on the Accreditation of Hospitals, the operation and administration of health maintenance organizations authorized by section 1395mm of this title, the experiments and demonstration projects authorized by section 1395b–1 of this title, and the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972), and shall transmit to the Congress annually a report concerning the operation of such programs. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 201(c)(7), 222(c), 226(d), 244(d), 86 Stat. 1373, 1393, 1404, 1423.)

REFERENCES IN TEXT

Section 222(a) of the Social Security Amendments of 1972, referred to in subsec. (b), is section 222(a) of Pub. L. 92–603, which enacted provisions set out as note under section 1395f of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–603, § 201(c)(7), added "and the disabled" following "aged".

Subsec. (b). Pub. L. 92–603, §§ 222(c), 226(d), 244(d), substituted "(including a validation of the accreditation process of the Joint Commission on the Accreditation of Hospitals, the operation and administration of health maintenance organizations authorized by section 1395mm of this title, the experiments and demonstration projects authorized by section 1395b–1 of this title, the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972)" for "(including the experimentation authorized by section 1395b–1 of this title)". Substitution of "1972" for "1971" effected by the amendment under section 222(c) of Pub. L. 92–603 was also accomplished by section 226(d)(2) of Pub. L. 92–603.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of section by section 226(d) of Pub. L. 92–603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92–603, set out as a note under section 1395mm of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 231f.

§ 1395mm. Payments to health maintenance organizations.

(a) Rates and adjustments.

(1) In lieu of amounts which would otherwise be payable pursuant to sections 1395f(b) and 1395*l*(a) of this title, the Secretary is authorized to determine, by actuarial methods, as provided in this section, but only with respect to a health maintenance organization with which he has entered into a contract under subsection (i) of this section, a per capita rate of payment—

(A) for services provided under parts A and B for individuals enrolled with such organization pursuant to subsection (e) of this section who are entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B, and

(B) for services provided under part B for individuals enrolled with such organization pursuant to subsection (e) of this section who are not entitled to benefits under part A but who are enrolled for benefits under part B.

(2) An interim per capita rate of payment for each health maintenance organization shall be determined annually by the Secretary on the basis of each organization's annual operating budget and enrollment forecast which shall be submitted (in such form and in such detail as the Secretary may prescribe) at least 90 days before the beginning of each contract year. Each interim rate shall be equal to the estimated per capita cost (based upon types and components of expenses otherwise reimbursable under this subchapter) of providing services defined in paragraph (3)(A)(iii). In the event that the data requested to be furnished by a health maintenance organization are not furnished timely, such reduction in interim payments may be made by the Secretary as is appropriate, until such time as a reasonable estimate of per capita costs can be made. Each month, the Secretary shall pay each organization its interim per capita rate, in advance, for each individual enrolled with it pursuant to subsection (e) of this section. Each such organization shall submit interim estimated cost reports and enrollment data on a quarterly basis in such form and manner satisfactory to the Secretary, and the Secretary shall adjust each interim per capita rate to the extent necessary to maintain interim payments at the level of current costs. Interim payments made under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

(3)(A) With respect to any health maintenance organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i)(2)(A) of this section, payments made to such organization shall be subject to the following adjustments at the end of each contract year:

(i) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is less than the adjusted average per capita incurred cost (as defined herein) of providing such services, the resulting difference (hereinafter referred to as "savings") shall be apportioned following the close of a contract year for such year between such organization and the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (hereinafter collectively referred to as the "Medicare Trust Funds") as follows:

(I) savings up to 20 percent of the adjusted average per capita cost shall be apportioned equally between such organization and the Medicare Trust Funds;

(II) savings in excess of 20 percent of the adjusted average per capita cost shall be apportioned entirely to such Trust Funds;

(ii) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is greater than the adjusted average per capita incurred cost of providing such services, the resulting difference (hereinafter referred to as "losses"), shall be absorbed by such organization, and shall be carried forward and offset from savings realized in later years;

(iii) determination of any amounts payable at the close of the contract year to such organization or to the Trust Funds shall be made as follows:

(I) within 90 days after close of a contract year, interim determination of the amount of estimated savings and apportionment thereof shall be made, actuarially, on the basis of interim reports of costs incurred by an organization, and adjusted average per capita costs (as defined herein), and other evidence acceptable to the Secretary and one-half of any amounts deemed payable to such organization or the Trust Funds shall be paid by such organization or the Secretary as appropriate;

(II) final settlement and payment by the Secretary or organization, as appropriate, of any additional amounts due on basis of such final settlement will be made where adequate data for actuarial computation are available, in timely fashion following submission by such organization of reports specified in subparagraph (C) of this paragraph; and

(III) where such final settlement is reached more than 90 days following submission of reports specified in subparagraph (C) of this paragraph, any amount payable by the Secretary or organization shall be increased by an interest amount, accruing from the 91st day following submission of such report, equal to the average rate of interest payable on Federal obligations if issued on such 91st day for purchase by the Trust Funds.

(iv) The term "adjusted average per capita cost" means the average per capita amount that the Secretary determines (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in the geographic area served by a health maintenance organization or in a similar area, with appropriate adjustment to assure actuarial equivalence, including adjustments relating to age distribution, sex, race, institutional status, disability status, and any other relevant factors)

would be payable in any contract year for services covered under this subchapter and types of expenses otherwise reimbursable under this subchapter (including administrative costs incurred by organizations described in sections 1395h and 1395u of this title) if such services were to be furnished by other than such health maintenance organization.

(B) With respect to any health maintenance organization which has entered into a reasonable cost reimbursement contract with the Secretary pursuant to subsection (i)(2)(B) of this section, payments made to such organization shall be subject to suitable retroactive corrective adjustments at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses otherwise reimbursable under this subchapter for providing services covered under this subchapter to individuals described in paragraph (1).

(C) Any contract with a health maintenance organization under this subchapter shall provide that the Secretary shall require, at such time following the expiration of each accounting period of a health maintenance organization (and in such form and in such detail) as he may prescribe:

(i) that such health maintenance organization report to him in an independently certified financial statement its per capita incurred cost based on the types and components of expenses otherwise reimbursable under this subchapter for providing services described in paragraph (1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

(ii) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

(iii) that in any case in which a health maintenance organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this subchapter, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the health maintenance organization by related organizations and owners) issued by the Secretary in accordance with section 1395x(v) of this title; and

(iv) that in any case in which compensation is paid by a health maintenance organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

(4) The payments to health maintenance organizations under this subparagraph with respect to individuals described in subsection (a)(1)(A) of this section shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of such payment to such an organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

(A) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1395r(c)(1) of this title, and

(B) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1395r(c)(4) of this title.

The remainder of such payment shall be paid by the former trust fund. For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a–1 of this title.

(b) Definition.

The term "health maintenance organization" means a public or private organization which—

(1) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on the basis of a predetermined periodic rate without regard to the frequency or extent of services furnished to any particular enrollee;

(2) provides, either directly or through arrangements with others, to the extent applicable in subsection (c) of this section (through institutions, entities, and persons meeting the applicable requirements of section 1395r of this title), all of the services and benefits covered under parts A and B of this subchapter which are available to individuals residing in the geographic area served by the health maintenance organization;

(3) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

(4) provides either directly or under arrangements with others, the services of a sufficient number of primary care and specialty care physicians to meet the health needs of its members; for purposes of this section the term "specialty care physician" means a physician who is either board certified or eligible for board certification, except that the Secretary may by regulation prescribe conditions under which physicians who have a record of demonstrated proficiency but who are

not eligible for board certification may, on the basis of training and experience, be recognized as specialty care physicians;

(5) has effective arrangements to assure that its members have access to qualified practitioners in those specialties which are generally available in the geographic area served by the health maintenance organization;

(6) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically;

(7) except as provided in subsection (h) of this section, has at least half of its enrolled members consisting of individuals under age 65;

(8) assures that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations; and

(9) has an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) of this section in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of paragraph (7) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.

(c) Benefits.

The benefits provided under this section to enrollees of an organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i)(2)(A) of this section shall consist of—

(1) in the case of an individual who is entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B—

(A) entitlement to have payment made on his behalf for all services described in section 1395d and section 1395k of this title which are furnished to him by the health maintenance organization with which he is enrolled pursuant to subsection (e) of this section; and

(B) entitlement to have payment made by such health maintenance organization to him or on his behalf for (i) such emergency services (as defined in regulations), (ii) such urgently needed services (as defined in regulations) furnished to him during a period of temporary absence (as defined in regulations) from the geographic area served by the health maintenance organization with which he is enrolled, and (iii) such other services as may be determined, in accordance with subsection (f) of this section, to be services which the individual was entitled to have furnished by the health maintenance organization, as may be furnished to him by a physician, supplier, or provider of services, other than the health maintenance organization with which he is enrolled; and

(2) in the case of an individual who is not entitled to hospital insurance benefits under part A but who is enrolled for medical insurance benefits under part B, entitlement to have payment made for services described in paragraph (1), but only to the extent that such services are also described in section 1395k of this title.

(d) Enrollment in local health maintenance organizations.

Subject to the provisions of subsection (e) of this section, every individual described in subsection (c) of this section shall be eligible to enroll with any health maintenance organization (as defined in subsection (b) of this section) which serves the geographic area in which such individual resides.

(e) Termination of enrollment.

An individual may enroll with a health maintenance organization under this section, and may terminate such enrollment, as may be prescribed by regulations.

(f) Hearings; judicial review.

Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive without additional cost to him any health service to which he believes he is entitled shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 405(b) of this title and in any such hearing the Secretary shall make such health maintenance organization a party thereto. If the amount in controversy is $1,000 or more, such individual or health maintenance organization shall be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(g) Limits on costs.

(1) If the health maintenance organization provides its enrollees under this section only the services described in subsection (c) of this section, its premium rate or other charges for such enrollees shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B, if they were not enrolled under this section.

(2) If the health maintenance organization provides to its enrollees under this section services in addition to those described in subsection (c) of this section, election of coverage for such additional services shall be optional for such enrollees and such organization shall furnish such enrollees with information on the portion of its premium rate or other charges applicable to such additional services. The portion of its premium rate or other charges applicable to the services described in subsection (c) of this section shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B if they were not enrolled under this section.

(h) Nonapplicability to certain organizations.

The provisions of paragraph (7) of subsection (b) of this section shall not apply with respect to any

health maintenance organization for such period not to exceed three years from the date such organization enters into an agreement with the Secretary pursuant to subsection (i) of this section, as the Secretary may permit, but only so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plans for each year that it is making continuous efforts and progress toward achieving compliance with the provisions of such paragraph (7) within such three-year period.

(i) Contract authority.

(1) Subject to the limitations contained in subparagraphs (A) and (B) of paragraph (2), the Secretary is authorized to enter into a contract with any health maintenance organization which undertakes to provide, on an interim per capita prepayment basis, the services described in section 1395k of this title (and section 1395d of this title, in the case of individuals who are entitled to hospital insurance benefits under part A) to individuals enrolled with such organization pursuant to subsection (e) of this section.

(2)(A) If the health maintenance organization (i) has a current enrollment of not less than 25,000 members on a prepaid capitation basis and has been the primary source of health care of at least 8,000 persons in each of the two years immediately preceding the contract year, or (ii) serves a nonurban geographic area, has a current enrollment of not less than 5,000 members on a prepaid capitation basis and has been the primary source of health care for at least 1,500 persons in each of the three years immediately preceding the contract year, the Secretary may enter into a risk sharing contract with such organization pursuant to which any savings, as determined pursuant to subsection (a)(3)(A) of this section, are shared between such organization and the Medicare Trust Funds in the manner prescribed in such subsection. For purposes of this subparagraph, a health maintenance organization shall be considered to serve a nonurban geographic area if it is located in a nonmetropolitan county (that is, a county with fewer than 50,000 inhabitants), or if it has at least one such county in its normal service area, or if it is located outside of a metropolitan area and its facilities are within reasonable travel distance (as defined by the Secretary) of fewer than 50,000 individuals. No health maintenance organization which has entered into a risk-sharing contract with the Secretary under this subparagraph and has voluntarily terminated such contract may again enter into such a contract.

(B) If the health maintenance organization does not meet the requirements of subparagraph (A), or if the Secretary is not satisfied that the health maintenance organization has the capacity to bear the risk of potential losses as determined under clause (ii) of subsection (a)(3)(A) of this section, or if the health maintenance organization meeting the requirements of subparagraph (A) so elects, or if an organization does not fully meet the requirements of subsection (b) of this section but has demonstrated to the satisfaction of the Secretary that it is making reasonable efforts to meet, and is developing the capability to fully meet, such requirements, and that it fully meets such basic requirements as the Secretary shall prescribe in regulations, the Secretary may, if he is otherwise satisfied that the health maintenance organization or other organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1395x(v) of this title) in the manner prescribed in subsection (a)(3)(B) of this section.

(3) Such contract may, at the option of such organization, provide that the Secretary (A) will reimburse hospitals and skilled nursing facilities for the reasonable cost (as determined under section 1395x(v) of this title) of services furnished to individuals enrolled with such organization pursuant to subsection (e) of this section, and (B) will deduct the amount of such reimbursement from payments which would otherwise be made to such organization. If a health maintenance organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1395x(v) of this title) unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

(4) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b) of this section.

(5) The effective date of any contract executed pursuant to this subsection shall be specified in such contract pursuant to the regulations.

(6) Each contract under this section—

(A) shall provide that the Secretary, or any person or organization designated by him—

(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under such contract; and

(ii) shall have the right to audit and inspect any books and records of such health maintenance organization which pertain to services performed and determinations of amounts payable under such contract;

(B) shall provide that no reinsurance costs (other than those with respect to out-of-area services), including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause (iii) of subsection (a)(3)(A) of this section, shall be allowed for purposes

of determining payments authorized under this section; and

(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

(j) Performance of contractual functions.

The function vested in the Secretary by subsection (i) of this section may be performed without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purposes of this subchapter. (Aug. 14, 1935, ch. 531, title XVIII, § 1876, as added and amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 226(a), 278(b)(3), 86 Stat. 1396, 1453; Dec. 31, 1973, Pub. L. 93–233, § 18(m), (n), 87 Stat. 970, 971.)

AMENDMENTS

1973—Subsec. (a)(3)(A)(ii). Pub. L. 93–233, § 18(m), struck out end text reading ", with the apportionment of savings being proportional to the losses absorbed and not yet offset".

Subsec. (g)(2). Pub. L. 93–233, § 18(n), substituted "portion of its premium rate or other charges" for "portion" and "shall not exceed" for "may not exceed", and struck out cl. (i) designation preceding "the actuarial value" and provisions reading "less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance", respectively.

1972—Subsec. (i). Pub. L. 92–603, § 278(b)(3), substituted "skilled nursing facility" for "extended care facility" and "skilled nursing facilities" for "extended care facilities".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 18(z–3)(3) of Pub. L. 93–233 provided that: "The amendments made by subsections (m) and (n) [of subsecs. (a)(3)(A)(ii) and (g)(2) of this section] shall be effective with respect to services provided after June 30, 1973."

EFFECTIVE DATE

Section 226(f) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting this section, amending sections 1395f, 1395*l*, 1395*ll* and 1396b of this title and enacting provisions set out as notes under this section] shall be effective with respect to services provided on or after July 1, 1973."

REIMBURSEMENT FOR SERVICES

Section 226(b) of Pub. L. 92–603 provided that:

"(1) Notwithstanding the provisions of section 1814 and section 1833 of the Social Security Act [sections 1395f and 1395*l* of this title], any health maintenance organization which has entered into a contract with the Secretary pursuant to section 1876 of such Act [this section] shall, for the duration of such contract, (except as provided in paragraph (2)) be entitled to reimbursement only as provided in section 1876 of such Act [this section] for individuals who are members of such organizations.

"(2) With respect to individuals who are members of organizations which have entered into a risk-sharing contract with the Secretary pursuant to subsection (i)(2)(A) [of this section] prior to July 1, 1973, and who, although eligible to have payment made pursuant to section 1876 of such Act [this section] for services rendered to them, chose (in accordance with regulations) not to have such payment made pursuant to such section, the Secretary shall, for a period not to exceed three years commencing on July 1, 1973, pay to such organization on the basis of an interim per capita rate, determined in accordance with the provisions of section 1876(a)(2) of such Act [subsec. (a)(2) of this section], with appropriate actuarial adjustments to reflect the difference in utilization of out-of-plan services, which would have been considered sufficiently reasonable and necessary under the rules of the health maintenance organization to be provided by that organization, between such individuals and individuals who are enrolled with such organization pursuant to section 1876 of such Act [this section]. Payments under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

"(3) If the Secretary determines that the per capita cost of any such organization in any contract year for providing services to individuals described in paragraph (2), when combined with the cost of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such year for providing out-of-plan services to such individuals, is less than or greater than the adjusted average per capita cost (as defined in section 1876(a)(3) of such Act) [subsec. (a)(3) of this section] of providing such services, the resulting savings shall be apportioned between such organization and such Trust Funds, or the resulting losses shall be absorbed by such organization, in the manner prescribed in section 1876(a)(3) of such Act [subsec. (a)(3) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289*l*–1, 1395f, 1395*l*, 1395*ll*, 1396b of this title.

§ 1395nn. Offenses and penalties.

(a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Whoever furnishes items or services to an individual for which payment is or may be made under this subchapter and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the

making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility or home health agency (as those terms are defined in section 1395x of this title), shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both. (Aug. 14, 1935, ch. 531, title XVIII, § 1877, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 242(b), 86 Stat. 1419.)

EFFECTIVE DATE

Section 242(d) of Pub. L. 92–603 provided that: "The provisions of amendments made by this section [enacting this section and section 1396h of this title and amending section 1395ll of this title] shall not be applicable to any acts, statements, or representations made or committed prior to the enactment of this Act. [Oct. 30, 1972]."

§ 1395oo. Provider Reimbursement Review Board.

(a) Establishment.

Any provider of services which has filed a required cost report within the time specified in regulations may obtain a hearing with respect to such cost report by a Provider Reimbursement Review Board (hereinafter referred to as the "Board") which shall be established by the Secretary in accordance with subsection (h) of this section, if—

(1) such provider—

(A) is dissatisfied with a final determination of the organization serving as its fiscal intermediary pursuant to section 1395h of this title as to the amount of total program reimbursement due to the provider for the items and services furnished to individuals for which payment may be made under this subchapter for the period covered by such report,

(B) has not received such final determination from such intermediary on a timely basis after filing such report, where such report complied with the rules and regulations of the Secretary relating to such report, or

(C) has not received such final determination on a timely basis after filing a supplementary cost report, where such cost report did not so comply and such supplementary cost report did so comply,

(2) the amount in controversy is $10,000 or more, and

(3) such provider files a request for a hearing within 180 days after notice of the intermediary's final determination under paragraph (1)(A) or with respect to appeals pursuant to paragraph (1) (B) or (C), within 180 days after notice of such determination would have been received if such determination had been made on a timely basis.

(b) Appeals by groups.

The provisions of subsection (a) of this section shall apply to any group of providers of services if each provider of services in such group would, upon the filing of an appeal (but without regard to the $10,000 limitation), be entitled to such a hearing, but only if the matters in controversy involve a common question of fact or interpretation of law or regulations and the amount in controversy is, in the aggregate, $50,000 or more.

(c) Right to counsel; rules of evidence.

At such hearing, the provider of services shall have the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. Evidence may be received at any such hearing even though inadmissable under rules of evidence applicable to court procedure.

(d) Decisions of Board.

A decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the intermediary and such other evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole. The Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination.

(e) Rules and regulations.

The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this subchapter or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this section. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d), (e), and (f) of section 405 of this title with respect to subpenas shall apply to the Board to the same extent as they apply to the Secretary with respect to subchapter II of this chapter.

(f) Finality of decision; judicial review; jurisdiction; venue; interest on amount in controversy.

(1) A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision, reverses, affirms, or modifies the Board's decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received. Such action shall be brought in the district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of Title 5 notwithstanding any other provisions in section 405 of this title.

(2) Where a provider seeks judicial review pursuant to paragraph (1), the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 180-day period as determined pursuant to subsection (a)(3) of this section and equal to the rate of return

on equity capital established by regulation pursuant to section 1395x (v) (1) (B) of this title and in effect at the time the civil action authorized under paragraph (1) is commenced, to be awarded by the reviewing court in favor of the prevailing party.

(3) No interest awarded pursuant to paragraph (2) shall be deemed income or cost for the purposes of determining reimbursement due providers under this chapter.

(g) Certain findings not reviewable.

The finding of a fiscal intermediary that no payment may be made under this subchapter for any expenses incurred for items or services furnished to an individual because such items or services are listed in section 1395y of this title shall not be reviewed by the Board, or by any court, pursuant to an action brought under subsection (f) of this section.

(h) Composition and compensation.

The Board shall be composed of five members appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of cost reimbursement, and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS–18 in section 5332 of Title 5. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

(i) Technical and clerical assistance.

The Board is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions. (Aug. 14, 1935, ch. 531, title XVIII, § 1878, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 243(a), 86 Stat. 1420, and amended Oct. 26, 1974, Pub. L. 93–484, § 3(a), 88 Stat. 1459.)

AMENDMENTS

1974—Subsec. (f). Pub. L. 93–484 redesignated existing provisions as par. (1), and, as so redesignated, added provisions authorizing judicial review for providers of final decisions of the Board and judicial review of any affirmance by the Secretary, and added pars. (2) and (3).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(b) of Pub. L. 93–484 provided that: "The amendment made by subsection (a) [amending subsec. (f) of this section] shall be applicable to cost reports of providers of services for accounting periods ending on or after June 30, 1973."

EFFECTIVE DATE

Section 243(c) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting this section and amending section 1395h(a) of this title] shall apply with respect to cost reports of providers of services, as defined in title XVIII of the Social Security Act [this subchapter], for accounting periods ending on or after June 30, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395h of this title.

§ 1395pp. Limitation on liability where claims are disallowed.

(a) Conditions prerequisite to payment for items and services notwithstanding determination of disallowance.

Where—

(1) a determination is made that, by reason of section 1395y(a)(1) or (9) of this title, payment may not be made under part A or part B of this subchapter for any expenses incurred for items or services furnished an individual by a provider of services or by another person pursuant to an assignment under section 1395u(b)(3)(B)(ii) of this title, and

(2) both such individual and such provider of services or such other person, as the case may be, did not know, and could not reasonably have been expected to know, that payment would not be made for such items or services under such part A or part B,

then to the extent permitted by this subchapter, payment shall, notwithstanding such determination, be made for such items or services (and for such period of time as the Secretary finds will carry out the objectives of this subchapter), as though section 1395y(a)(1) and section 1395y(a)(9) of this title did not apply. In each such case the Secretary shall notify both such individual and such provider of services or such other person, as the case may be, of the conditions under which payment for such items or services was made and in the case of comparable situations arising thereafter with respect to such individual or such provider or such other person, each shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services or reasonably comparable items or services.

(b) Knowledge of person or provider that payment could not be made; indemnification of individual.

In any case in which the provisions of paragraphs (1) and (2) of subsection (a) of this section are met, except that such provider or such other person, as the case may be, knew, or could be expected to know, that payment for such services or items could not be made under such part A or part B, then the Secretary shall, upon proper application filed within such time as may be prescribed in regulations, indemnify the individual (referred to in such paragraphs), subject to the deductible and coinsurance provisions of this subchapter, for any payments received from such individual by such provider or such other person, as the case may be, for such items or services. Any payments made by the Secretary as indemnification shall be deemed to have been made to such provider or such other person, as the case may be, and shall be treated as overpayments, recoverable from such provider or such other person, as the case may be, under applicable provisions of law. In each such case the Secretary shall notify such individual of the conditions under which indemnification is made and in the case of comparable situations arising thereafter with respect to such individual, he shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services.

(c) Knowledge of both provider and individual to whom items or services were furnished that payment could not be made.

No payments shall be made under this subchapter in any cases in which the provisions of paragraph (1) of subsection (a) of this section are met, but both the individual to whom the items or services were furnished and the provider of service or other person, as the case may be, who furnished the items or services knew, or could reasonably have been expected to know, that payment could not be made for items or services under part A or part B by reason of section 1395y (a)(1) or (a)(9) of this title.

(d) Exercise of rights.

In any case arising under subsection (b) of this section (but without regard to whether payments have been made by the individual to the provider or other person) or subsection (c) of this section, the provider or other person shall have the same rights that an individual has under section 1395ff(b) of this title (when the determination is under part A) or section 1395u(b)(3)(C) of this title (when the determination is under part B) when the amount of benefit or payments is in controversy, except that such rights may, under prescribed regulations, be exercised by such provider or other person only after the Secretary determines that the individual will not exercise such rights under such sections. (Aug. 14, 1935, ch. 531, title XVIII, § 1879, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 213(a), 86 Stat. 1384.)

EFFECTIVE DATE

Section 213(b) of Pub. L. 92–603 provided that: "The amendments made by this section [enacting this section] shall be effective with respect to claims under part A or part B of title XVIII of the Social Security Act [this subchapter], filed with respect to items or services furnished after the date of the enactment of this Act [Oct. 30, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395h of this title.

SUBCHAPTER XIX.—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 300e–6, 602, 603, 713, 1301, 1306, 1308, 1309, 1315, 1316, 1317, 1318, 1319, 1320a–1, 1320a–2, 1382, 1382e, 1383c, 1395b–1, 1395v, 1395x, 1395z, 1395cc, 1397a, 1397b, 1397c, 2689e, 3024, 3028 of this title; title 12 section 1715w; title 38 section 4108.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 1–266, 1–267 of the District of Columbia Code.

§ 1396. Appropriations.

For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for medical assistance. (As amended Dec. 31, 1973, Pub. L. 93–233, § 13(a)(1), 87 Stat. 960.)

AMENDMENTS

1973—Pub. L. 93–233 substituted in item (1) "disabled individuals" for "permanently and totally disabled individuals".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–233 effective with respect to payments under section 1396b of this title for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93–233, set out as a note under section 1396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395cc of this title.

§ 1396a. State plans for medical assistance.

(a) Contents.

A State plan for medical assistance must—

* * * * *

(5) either provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, or provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under subchapter I or XVI of this chapter (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under subchapter XVI of this chapter, or by the agency or agencies administering the supplemental security income program established under subchapter XVI or the State plan approved under part A of subchapter IV of this chapter if the State is not eligible to participate in the State plan program established under subchapter XVI of this chapter.

* * * * *

(9) provide—

(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services, and

(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions;

(10) provide—

(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter;

(B) that the medical assistance made available to any individual described in clause (A)—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in clause (A); and

(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, as determined in accordance with standards prescribed by the Secretary—

(i) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under subchapter XVI of this chapter, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

(ii) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1396d(a) of this title to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of subchapter XVIII of this chapter to individuals eligible therefor (either pursuant to an agreement entered into under section 1395v of this title or by reason of the payment of premiums under such subchapter by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of subchapter XVIII of this chapter for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A);

* * * * *

(13) provide—

(A) (i) for the inclusion of some institutional and some noninstitutional care and services, and

(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing facility services, and

(B) in the case of individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1396d(a) of this title, and

(C) in the case of individuals not included under subparagraph (B) for the inclusion of at least—

* * * * *

(ii) (I) the care and services listed in any 7 of the clauses numbered (1) through (16) of such section and (II) in the event the care and services provided under the State plan include hospital or skilled nursing facility services, physicians' services to an individual in a hospital or skilled nursing facility during any period he is receiving hospital services from such hospital or skilled nursing facility services from such facility, and

(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1320a–1 of this title, which shall be developed by the State and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1395x(v) of this title as the reasonable cost of such services for purposes of subchapter XVIII of this chapter; and

(E) effective July 1, 1976, for payment of the skilled nursing facility and intermediate care facility services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary;

(14) effective January 1, 1973, provide that—

(A) in the case of individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them

a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)—

(i) no enrollment fee, premium, or similar charge, and no deduction, cost sharing, or similar charge with respect to the care and services listed in clauses (1) through (5) and (7) of section 1396d(a) of this title, will be imposed under the plan, and

(ii) any deduction, cost sharing, or similar charge imposed under the plan with respect to other care and services will be nominal in amount (as determined in accordance with standards approved by the Secretary and included in the plan), and

(B) with respect to individuals (other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)) who are not receiving aid or assistance under any such State plan and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be—

(i) there may be imposed an enrollment fee, premium, or similar charge which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income, and

(ii) any deductible, cost-sharing, or similar charge imposed under the plan will be nominal;

* * * * *

(17) include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescrioed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter, based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this subchapter, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient and (in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV, or to have paid with respect to him supplemental security income benefits under subchapter XVI of this chapter as would not be disregarded (or set aside for future needs) in determining his eligibility for such aid, assistance or benefits, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or (with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program); and provide for flexibility in the application of such standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums or otherwise) incurred for medical care or for any other type of remedial care recognized under State law;

(18) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, in the case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21 or (with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title with respect to States which are not eligible to participate in such program) of any medical assistance correctly paid on behalf of such individual under the plan;

* * * * *

(20) If the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

* * * * *

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 303(a)(4)(A)(i) and (ii), section 803(a)(1)(A)(i) and (ii),

or section 1383(a)(4)(A) (i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients;

(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing facilities, and other alternatives to care in public institutions for mental diseases;

* * * * *

(23) except in the case of Puerto Rico, the Virgin Islands, and Guam, provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and a State plan shall not be deemed to be out of compliance with the requirements of this paragraph or paragraph (1) or (10) solely by reason of the fact that the State (or any political subdivision thereof) has entered into a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization;

(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing facilities, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this chapter, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this chapter, and (C) to provide information needed to determine payments due under this chapter on account of care and services furnished to individuals;

* * * * *

(26) effective July 1, 1969, provide (A) for a regular program of medical review (including medical evaluation) of each patient's need for skilled nursing facility care or (in the case of individuals who are eligible therefor under the State plan) need for care in a mental hospital, a written plan of care, and, where applicable, a plan of rehabilitation prior to admission to a skilled nursing facility; (B) for periodic inspections to be made in all skilled nursing facilities and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of (i) the care being provided in such nursing facilities (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing facilities (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities (or institutions), (iii) the necessity and desirability of the continued placement of such patients in such nursing facilities (or institutions), and (iv) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan;

* * * * *

(28) provide that any skilled nursing facility receiving payments under such plan must satisfy all of the requirements contained in section 1395x (j) of this title, except that the exclusion contained therein with respect to institutions which are primarily for the care and treatment of mental diseases and tuberculosis shall not apply for purposes of this subchapter;

(29) include a State program which meets the requirements set forth in section 1396g of this title, for the licensing of administrators of nursing homes;

(30) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1396b(i)(4) of this title) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care;

(31) provide (A) for a regular program of independent professional review (including medical evaluation of each patient's need for intermediate care) and a written plan of service prior to admission or authorization of benefits in an intermediate care facility as determined under regulations of the Secretary; (B) for periodic on-site inspections to be made in all such intermediate care facilities (if the State plan includes care in such institutions) within the State by one or more independent professional review teams (composed of physicians or registered nurses and other appropriate health and social service personnel) of (i) the care being provided in such intermediate care facilities to persons receiving assistance under the State plan, (ii) with respect

to each of the patients receiving such care, the adequacy of the services available in particular intermediate care facilities to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities, (iii) the necessity and desirability of the continued placement of such patients in such facilities, and (iv) the feasibility of meeting their health care needs through alternative institutional or non-institutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections, together with any recommendations to the State agency administering or supervising the administration of the State plan;

(32) provide that no payment under the plan for any care or service to an individual by a physician, dentist, or other individual practitioner shall be made to anyone other than such individual or such physician, dentist, or practitioner, except that payment may be made (A) to the employer of such physician, dentist, or practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (B) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service;

(33) provide—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the penultimate sentence of this subsection; and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title, or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this subchapter the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan;

(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (or application was made on his behalf in the case of deceased individual) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished;

(35) effective January 1, 1973, provide that any intermediate care facility receiving payments under such plan must supply to the licensing agency of the State full and complete information as to the identity (A) of each person having (directly or indirectly) an ownership interest of 10 per centum or more in such intermediate care facility or who is the owner (in whole or in part) of any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility, (B) in case an intermediate care facility is organized as a corporation, of each officer and director of the corporation, and (C) in case an intermediate care facility is organized as a partnership, of each partner; and promptly report any changes which would affect the current accuracy of the information so required to be supplied; and

(36) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this subchapter, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under subchapter I of this chapter (or subchapter XVI of this chapter, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this sub-

chapter (except for purposes of paragraph (10)). For purposes of paragraphs (9)(A), (29), (31), and (33), and of section 1396b(i)(4) of this title, the terms "skilled nursing facility" and "nursing home" do not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

For purposes of paragraph (10) any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under subchapter I, X, XIV, or XVI, of this chapter, or part A of subchapter IV of this chapter and who for such month was entitled to monthly insurance benefits under subchapter II of this chapter shall for purposes of this subchapter only be deemed to be eligible for financial aid or assistance for any month thereafter if such individual would have been eligible for financial aid or assistance for such month had the increase in monthly insurance benefits under subchapter II of this chapter resulting from enactment of Public Law 92–336 not been applicable to such individual.

* * * * *

(d) Repealed. Pub. L. 92–603, title II, § 231, Oct. 30, 1972, 86 Stat. 1410.

(e) Continued eligibility of families determined ineligible because of income and resources or hours of work limitations of plan.

Notwithstanding any other provision of this subchapter, effective January 1, 1974, each State plan approved under this subchapter must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of subchapter IV of this chapter in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this subchapter (as though the family was receiving aid under the plan approved under part A of subchapter IV of this chapter) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of subchapter IV of this chapter because of income and resources or hours of work limitations contained in such plan.

(f) Effective date of State plan as determinative of duty of State to provide medical assistance to aged, blind, or disabled individuals.

Notwithstanding any other provision of this subchapter, except as provided in subsection (e) of this section, no State not eligible to participate in the State plan program established under subchapter XVI of this chapter shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of subchapter XVI of this chapter) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this subchapter and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1396b(f) of this title (after deducting any supplemental security income payment and State supplementary payment made with respect to such individual, and incurred expenses for medical care as recognized under State law) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972. In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in subchapter XVI of this chapter, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection.

(g) Consent to suit and waiver of immunity by State.

Notwithstanding any other provision of this subchapter, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1395x(u) of this title) with respect to the application of subsection (a)(13)(D) of this section to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such a suit conferred by the 11th amendment to the Constitution or otherwise. (Aug. 14, 1935, ch. 531, title XIX, § 1902, as added July 30, 1965, Pub. L. 89–97, title I, § 121(a), 79 Stat. 344, and amended Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(6), 223(a), 224 (a), (c)(1), 227(a), 228(a), 229(a), 231, 234(a), 235(a), 236(a), 237, 238, 241(f)(1)–(4), title III, § 302(b), 81 Stat. 896, 901–906, 908, 911, 917, 929; Aug. 9, 1969, Pub. L. 91–56, § 2 (c), (d), 83 Stat. 99; Dec. 28, 1971, Pub. L. 92–223, § 4(b), 85 Stat. 809; Oct. 30, 1972, Pub. L. 92–603, title II, §§ 208(a), 209 (a), (b)(1), 221(c)(5), 231, 232(a), 236(b), 237(a)(2), 239 (a), (b), 240, 246(a), 249(a), 255(a), 268(a), 274(a), 278 (a) (18), (19), (b)(14), 298, 299A, 299D(b), 86 Stat. 1381, 1389, 1410, 1415–1418, 1424, 1426, 1446, 1450, 1452–1454, 1460, 1462; Dec. 31, 1973, Pub. L. 93–233, §§ 13(a)(2)–(10), 18 (o), (p), (q), (x)(1)–(4), 87 Stat. 960–962, 971, 972;

Aug. 7, 1974, Pub. L. 93–368, § 9(a), 88 Stat. 422; July 1, 1975, Pub. L. 94–48, §§ 1, 2, 89 Stat. 247; Dec. 31, 1975, Pub. L. 94–182, title I, § 111(a), 89 Stat. 1054.)

REFERENCES IN TEXT

Section 803 of this title, referred to in subsec. (a)(20)(C), was repealed by Pub. L. 93–647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Public Law 92–336, referred to in provisions following par. (36), generally increased federal old-age, survivors, and disability insurance benefits. For classification see Tables Volume.

AMENDMENTS

1975—Subsec. (a)(23). Pub. L. 94–48, § 2, added "except in the case of Puerto Rico, the Virgin Islands, and Guam,".

Subsec. (a), foll. par. (36), Pub. L. 94–48, § 1, added provision relating to eligibility under this subchapter of any individual who was eligible for the month of August 1972 under a State plan approved under subchapters I, X, XIV, XVI, or part A of subchapter IV of this chapter if such individual would have been eligible for such month had the increase in monthly insurance benefits under subchapter II of this chapter resulting from enactment of Pub. L. 92–336 not been applicable to such individual.

Subsec. (g). Pub. L. 94–182 added subsec. (g).

1974—Subsec. (a)(14)(B)(i). Pub. L. 93–368 substituted "may" for "shall".

1973—Subsec. (a)(5). Pub. L. 93–233, § 13(a)(2)(A), (B), substituted "to administer or to supervise the administration of the plan" for "to administer the plan" and "to supervise the administration of the plan" in that order and added after the parenthetical phrase the conditional provision "if the State is eligible to participate in the State plan program established under subchapter XVI of this chapter, or by the agency or agencies administering the supplemental security income program established under subchapter XVI of this chapter or the State plan approved under part A of subchapter IV of this chapter if the State is not eligible to participate in the State plan program established under subchapter XVI of this chapter".

Subsec. (a)(10). Pub. L. 93–233, § 13(a)(3), incorporated existing text in provisions designated as cl. (A), providing therein for medical assistance to individuals with respect to whom supplemental security income benefits are paid; incorporated existing par. (A) in provisions designated as cl. (B); incorporated existing par. (B) in provisions designated as cl. (C), providing therein for individuals not meeting income and resources requirements of the supplemental security income program; substituted in cls. (B)(ii), (C), (C)(i)(ii) and "medical assistance" for "medical or remedial care and services" appearing in predecessor provisions and in cl. (C)(i) "except for income and resources" for "if needy" appearing in predecessor provision; and in the exception provisions included reference to par. (16) of section 1396(a) of this title in item I, substituted "deductibles" for "the deductibles" in item (II), and added item (III).

Subsec. (a)(13)(B). Pub. L. 93–233, § 13(a)(4), substituted "any plan of the State approved" for "the State's plan approved" and inserted after "part A of subchapter IV of this chapter" text reading ", or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter".

Subsec. (a)(13)(C)(ii)(I). Pub. L. 93–233, § 18(x)(1), substituted reference to clause "16" for "14".

Subsec. (a)(14)(A). Pub. L. 93–233, § 13(a)(5), substituted "any plan of the State approved" for "a State plan approved" and "with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)" for "who meet the income and resources requirements of the one of such State plans which is appropriate".

Subsec. (a)(14)(B). Pub. L. 93–233, § 13(a)(6)(A)–(D), inserted after "with respect to individuals" the parenthetical provision "(other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A))"; inserted after "any such State plan" the clause "and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter"; substituted "the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be," for "the one of such State plans which is appropriate"; and struck out "or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to subsection (a)(10)(B) of this section approved under this subchapter" preceding the hyphen and cl. (i), respectively.

Subsec. (a)(17). Pub. L. 93–233, § 13(a)(7)(A)–(D), 8, substituted: "any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter" for "the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter"; "except for income and resources" for "if he met the requirements as to need"; "any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or to have paid with respect to him supplemental security income benefits under subchapter XVI of this chapter" for "a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter"; "such aid, assistance, or benefits" for "and amount of such aid or assistance under such plan"; and "(with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program)" for "is blind or permanently and totally disabled".

Subsec. (a)(18). Pub. L. 93–233, § 13(a)(8), substituted "(with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program)" for "is blind or permanently and totally disabled".

Subsec. (a)(20)(C). Pub. L. 93–233, § 13(a)(9), inserted reference to section 803(a)(1)(A)(i) and (ii) of this title.

Subsec. (a)(21). Pub. L. 93–233, § 18(x)(4) provided for substitution of "nursing facilities" for "nursing homes".

Subsec. (a)(24). Pub. L. 93–233, § 18(x)(4) provided for substitution of "nursing facilities" for "nursing homes".

Subsec. (a)(26)(B). Pub. L. 93–233, § 18(x)(4), provided for substitution of "nursing facility" and "nursing facilities" for "nursing home" and "nursing homes", changes already executed under 1972 Amendment by Pub. L. 92–603, § 278(a)(19).

Subsec. (a)(33)(A). Pub. L. 93–233, § 18(x)(2), substituted "penultimate sentence" for "last sentence".

Subsec. (a)(34). Pub. L. 93–233, § 18(o), inserted "(or application was made on his behalf in the case of a deceased individual)" following "he made application".

Subsec. (a)(35)(A). Pub. L. 93–233, § 18(p), required the intermediate care facility to supply full and complete information respecting the person who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the intermediate care facility or any of the property or assets of the intermediate care facility.

Subsec. (a)(35)–(37). Pub. L. 93–233, § 18(x)(3)(A), (B), substituted "; and" for "." at end of par. (35); and corrected numerical sequence of paragraphs, redesignat-

ing par. (37) as (36), the original subsec. (a) having been enacted without a par. (36).

Subsec. (e). Pub. L. 93-233, § 18(q), substituted "each family which was receiving aid pursuant to a plan of the State approved under part A" for "each family which was eligible for assistance pursuant to part A", "for such aid because of increased hours of, or increased income from, employment" for "for such assistance because of increased income from employment", and "remain eligible for assistance under the plan approved under this subchapter (as though the family was receiving aid under the plan approved under part A of subchapter IV of this chapter) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of subchapter IV of this chapter because of income and resources or hours of work limitations" for "remain eligible for such assistance for 4 calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of the income and resources limitations".

Subsec. (f) Pub. L. 93-233, § 13(a)(10)(A)-(D) substituted: "no State not eligible to participate in the State plan program established under subchapter XVI of this chapter" for "no State" and "any supplemental security income payment and State supplementary payment made with respect to such individual" for "such individual's payment under subchapter XVI of this chapter" and "as recognized under State law" for "as defined in section 213 of Title 26" in parenthetical text; and added two end sentences for consideration of certain individuals as eligible for medical assistance under cl. (10)(A) or (C) of subsec. (a) of this section or as eligible for such assistance under cl. (10)(A) in States not providing such assistance under cl. (10)(C), respectively.

1972—Subsec. (a). Pub. L. 92-603, §§ 268(a), 278(b)(14), added provisions exempting Christian Science sanatoriums from certain nursing facility and nursing home requirements.

Subsec. (a)(9). Pub. L. 92-603, § 239(a), added provisions to utilize state health agency for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services.

Subsec. (a)(13)(A)(ii). Pub. L. 92-603, § 278(a)(18), (b)(14), substituted "skilled nursing facility" for "skilled nursing home."

Subsec. (a)(13)(C). Pub. L. 92-603, § 278(a)(18), (b)(14), substituted "skilled nursing facility" for "skilled nursing home".

Subsec. (a)(13)(D). Pub. L. 92-603, §§ 221(c)(5), 232(a), added provisions that the reasonable cost of inpatient hospital services shall not exceed the amount determined under section 1395x(v) of this title and inserted reference to the consistency of methods and standards with section 1320a-1 of this title for determining the reasonable cost of inpatient hospital services.

Subsec. (a)(13)(E). Pub. L. 92-603, § 249(a), added subpar. (E).

Subsec. (a)(14). Pub. L. 92-603, § 208(a), substituted a nominal amount for an amount reasonably related to the recipient's income as the amount of the deduction, cost sharing, or similar charge imposed under the plan and added provisions covering individuals who are not receiving aid or assistance under any state plan and who do not meet the income and resources requirements and covering individuals who are included under the state plan for medical assistance pursuant to subsec. (a)(10)(B) of this section approved under this subchapter.

Subsec. (a)(23). Pub. L. 92-603, § 240, added provisions allowing States to adopt comprehensive health care programs while still complying with medicaid requirements.

Subsec. (a)(26). Pub. L. 92-603, §§ 274(a), 278(a)(19), (b)(14), substituted "evaluation)" for "evaluation" and "care" for "care)" and substituted "skilled nursing facility" and "skilled nursing facilities" for "skilled nursing home" and "skilled nursing homes".

Subsec. (a)(28). Pub. L. 92-603, § 246(a), substituted "skilled nursing facility" for "skilled nursing home" and substituted a simple reference to the requirements contained in section 1395x(j) of this title with a specified exception for provisions spelling out in detail the requirements for skilled nursing homes receiving payments.

Subsec. (a)(30). Pub. L. 92-603, § 237(a)(2), substituted "under the plan (including but not limited to utilization review plans as provided for in section 1396b(i)(4) of this title)" for "under the plan".

Subsec. (a)(31)(A). Pub. L. 92-603, § 298, struck out "which provides more than a minimum level of health care services" following "intermediate care facility".

Subsec. (a)(32). Pub. L. 92-603, § 236(b)(3), added par (32).

Subsec. (a)(33). Pub. L. 92-603, § 239(b)(3), added par. (33).

Subsec. (a)(34). Pub. L. 92-603, § 255(a)(3), added par. (34).

Subsec. (a)(35). Pub. L. 92-603, § 299A(3), added par. (35).

Subsec. (a)(37). Pub. L. 92-603, § 299D(b)(3), added par. (37).

Subsec. (d). Pub. L. 92-603, § 231, repealed subsec. (d), which related to modification of state plans for medical assistance under certain circumstances.

Subsec. (e). Pub. L. 92-603, § 209(a), added subsec. (e).

Subsec. (f). Pub. L. 92-603, § 209(b)(1), added subsec. (f).

1971—Subsec. (a)(31). Pub. L. 92-223 added par. (31).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 111(c) of Pub. L. 94-182 provided that: "The amendments made by this section [amending subsec. (g) of this section and section 1396b(i) of this title] shall (except as otherwise provided for therein) become effective January 1, 1976."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 9(b) of Pub. L. 93-368 provided that: "The amendment made by subsection (a) [to subsec. (a)(14)(B)(i) of this section] shall be effective January 1, 1973."

EFFECTIVE DATE OF 1973 AMENDMENT

Section 13(d) of Pub. L. 93-233 provided that: "The amendments made by subsection (a) [to subsecs. (a)(5), (10), (13)(B), (14)(A), (B), (17), (18), (20)(C), and (f) of this section and sections 1396, 1396b(a)(1), (f)(4), and 1396(a), (a)(iv)-(vii), (j), and (k) of this title] shall be effective with respect to payments under section 1903 of the Social Security Act [section 1396b of this title] for calendar quarters commencing after December 31, 1973."

Section 18(z-3)(4) of Pub. L. 93-233 provided that: "The amendments made by subsections (o) and (u) [of subsec. (a)(3) of this section and section 1396b(b)(2) of this title] shall be effective July 1, 1973".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 268(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a) of this section and section 1396g(g)(1) of this title] shall be effective on the date of the enactment of this Act [Oct. 30, 1972]."

Amendment of subsec. (a)(9) and (a)(33) by section 239(a), (b) of Pub. L. 92-603 to be effective Jan. 1, 1973 (or earlier if the state plan so provides), see section 239(d) of Pub. L. 92-603, set out as a note under section 705 of this title.

Amendment of subsec. (a)(13) by section 232(a) of Pub. L. 92-603 effective July 1, 1972 or earlier if the State plan so provides, see section 232(c) of Pub. L. 92-603, set out as a note under section 705 of this title.

Section 208(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (a)(14) of this section] shall be effective January 1, 1973 (or earlier if the State plan so provided)."

Amendment of subsec. (a)(28) by section 246(a) of Pub. L. 92-603 to be effective July 1, 1973, see section 246(c) of Pub. L. 92-603, set out as a note under section 1395x of this title.

Section 237(d)(2) of Pub. L. 92-603 provided that: "The amendment made by subsection (a)(2) [amending subsec. (a)(30) of this section] shall be effective July 1, 1973."

Amendment of subsec. (a)(32) by section 236(b) of Pub. L. 92-603 effective Jan. 1, 1973 or earlier if the state plan so provides, see section 236(c) of Pub. L. 92-603, set out as a note under section 1395u of this title.

Section 255(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [adding subsec. (a)(34) of this section] shall be effective July 1, 1973."

Amendment of subsec. (a)(37) by section 299D(b) of Pub. L. 92–603 effective beginning Jan. 1, 1973, or within 6 months following Oct. 30, 1972, whichever is later, see section 299D(c) of Pub. L. 92–603, set out as a note under section 1395aa of this title.

Section 209(b)(2) of Pub. L. 92–603 provided that: "The amendment made by this subsection [adding subsec. (f) of this section] shall become effective on January 1, 1974."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4(d) of Pub. L. 92–223, as amended by section 292 of Pub. L. 92–603, provided that: "The amendments made by this section [enacting subsec. (a)(31) of this section and section 1396d(a)(16), (c), (d) of this title and repealing section 1320a of this title] shall become effective January 1, 1972; except that the repeal made by subsection (c) [repealing section 1320a of this title], shall not become effective in the case of any State, which on January 1, 1972 did not have in effect a State plan approved under title XIX of the Social Security Act [this subchapter], until the first day of the first month (occurring after such date) that such State does have in effect a State plan approved under such title [this subchapter]."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 227(b) of Pub. L. 90–248, as amended by section 271A of Pub. L. 92–603, effective from and after July 1, 1972, provided that: "The amendments made by this section [enacting subsec. (a)(23) of this section] shall apply with respect to calendar quarters beginning after June 30, 1969; except that such amendments shall apply in the case of Puerto Rico, the Virgin Islands, and Guam only with respect to calendar quarters beginning after June 30, 1975."

MEDICAID PROVISIONS

COVERAGE OF ESSENTIAL PERSONS UNDER MEDICAID

Section 230 of Pub. L. 93–66, title II, July 9, 1973, 87 Stat. 159, provided that:

"In the case of any State plan (approved under title XIX of the Social Security Act [this subchapter]) which for December 1973 provided medical assistance to persons described in section 1905(a)(vi) of such Act [section 1396d(a)(vi) of this title], there is hereby imposed the requirement (and such State plan shall be deemed to require) that medical assistance under such plan be provided to each such person (who for December 1973 was eligible for medical assistance under such plan) for each month (after December 1973) that—

"(1) the individual (referred to in the last sentence of section 1905(a) of such Act [section 1396d(a) of this title]) with whom such person is living continues to meet the criteria (as in effect for December 1973) for aid or assistance under a State plan (referred to in such sentence), and

"(2) such person continues to have the relationship with such individual described in such sentence and meets the other criteria (referred to in such sentence) with respect to a State plan (so referred to) as such plan was in effect for December 1973.

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section."

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Section 13(c) of Pub. L. 93–233 provided that:

"In addition to other requirements imposed by law as conditions for the approval of any State plan under title XIX of the Social Security Act [this subchapter], there is hereby imposed (effective January 1, 1974) the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual—

"(1) for any month for which there (A) is payable with respect to such individual a supplementary payment pursuant to an agreement entered into between the State and the Secretary of Health, Education, and Welfare under section 212(a) of Public Law 93–66 [set out as note under section 1382 of this title], and (B) would be payable with respect to such individual such a supplementary payment, if the amount of the supplementary payments payable pursuant to such agreement were established without regard to paragraph (3)(A)(ii) of such section 212(a) [set out as note under section 1382 of this title], and

"(2) in like manner, and subject to the same terms and conditions, as medical assistance is provided under such plan to individuals with respect to whom benefits are payable for such month under the supplementary security income program established by title [subchapter] XVI of the Social Security Act [this chapter].

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals who are eligible for such assistance under this subsection."

PERSONS IN MEDICAL INSTITUTIONS

Section 231 of Pub. L. 93–66, title II, July 9, 1973, 87 Stat. 159, as amended by Pub. L. 93–233, § 13(b)(1), Dec. 31, 1973, 87 Stat. 964, provided that:

"For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section], any individual who, for all (or any part of) the month of December 1973—

"(1) was an inpatient in an institution qualified for reimbursement under title XIX of the Social Security Act [this subchapter], and

"(2)(A) received or would (except for his being an inpatient in such institution) have been eligible to receive aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of such Act [this chapter], and

"(B) on the basis of his status as described in subparagraph (A), was included as an individual eligible for medical assistance under a State plan approved under title XIX of such Act [this subchapter] (whether or not such individual actually received aid or assistance under a State plan referred to in subparagraph (A)),

shall be deemed to be receiving such aid or assistance for such month and for each succeeding month in a continuous period of months if, for each month in such period—

"(3) such individual continues to be (for all of such month) an inpatient in such an institution and would (except for his being an inpatient in such institution) continue to meet the conditions of eligibility to receive aid or assistance under such plan (as such plan was in effect for December 1973), and

"(4) such individual is determined (under the utilization review and other professional audit procedures applicable to State plans approved under title XIX of the Social Security Act [this subchapter]) to be in need of care in such an institution.

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section."

BLIND AND DISABLED MEDICALLY INDIGENT PERSONS

Section 232 of Pub. L. 93–66, title II, July 9, 1973, 87 Stat. 160, as amended by Pub. L. 93–233, § 13(b)(2), Dec. 31, 1973, 87 Stat. 964, provided that: "For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section], any individual who, for the month of December 1973 was eligible [subsec. (a)(10) of this section] for medical assistance by reason of his having been determined to meet the criteria for blindness or disability (established by a State plan approved under title [subchapter] I, X, XIV, or XVI of such Act [this chapter]), shall be deemed for purposes of title [subchapter] XIX [of this chapter] to be an individual who is blind or disabled within the meaning of section 1614(a) of the Social Security Act [section 1382c(a) of this title] for each month in a continuous period of months (beginning with the month of January 1974), if, for each month in such period, such individual continues to meet the criteria for blindness or disability so established by such a State plan (as it was in effect for December 1973). Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section, and the other conditions of eligibility contained in the plan of the State approved under title [subchapter]

XIX [of this chapter] (as it was in effect in December 1973)."

IMPACT OF 1972 SOCIAL SECURITY BENEFITS INCREASE UNDER PUB. L. 92-336 UPON ELIGIBILITY FOR ASSISTANCE UNDER THIS SUBCHAPTER

Section 249E of Pub. L. 92-603, as amended by section 233 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 160, provided that: "For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section] any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter] and who for such month was entitled to monthly insurance benefits under title II of such Act [subchapter II of this chapter] shall be deemed to be eligible for such aid or assistance for any month thereafter prior to July 1975 if such indivdual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under title II of such Act [subchapter II of this chapter] resulting from enactment of Pub. L. 92-336 [see Tables volume] not been applicable to such individual."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1395v, 1396b, 1396d, 1396g, 1396i of this title; title 21 section 1173.

§ 1396b. Payment to States.

(a) Computation of amount.

From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing January 1, 1966—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1396d(b) of this title, subject to subsections (g) and (h) of this section) of the total amount expended during such quarter as medical assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter, for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title, and, except in the case of individuals sixty-five years of age or older and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter who are not enrolled under part B of subchapter XVIII of this chapter, other insurance premiums for medical or any other type of remedial care or the cost thereof; plus

* * * * *

(3) an amount equal to—

(A)(i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administrative of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of subchapter XVIII of this chapter, including the State's share of the cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this chapter, and

(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States under this clause for either such fiscal year shall not exceed $150,000), and

(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan of the specific services so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; plus

(4) an amount equal to 100 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) which are attributable to compensation or training of personnel (of the State agency or any other public agency) responsible for inspecting public or private institutions (or portions thereof) providing long-term care to recipients of medical assistance to determine whether such institutions comply with health or safety standards applicable to such institutions under this chapter; plus

(5) an amount equal to 90 per centum of the sums expended during such quarter which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;

(6) an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) Quarterly expenditures beginning after December 31, 1969.

(1) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) of this section for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to individuals aged 65 or over

and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of subchapter XVIII of this chapter, other than amounts expended under provisions of the plan of such State required by section 1396a(34) of this title.

(2) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a–1 of this title.

(c) Repealed. Pub. L. 93–233, § 18(y)(1)(A), Dec. 31, 1973, 87 Stat. 973.

(d) Estimates of amount of State entitlement; installments; adjustments; overpayment; obligated appropriations.

(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) and (b) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

* * * * *

(e) Repealed. Pub. L. 92–603, title II, § 230, Oct, 30, 1972, 86 Stat. 1410.

(f) Limitation on Federal participation in medical assistance.

* * * * *

(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—

(A) who is receiving aid or assistance under any plan of the State aproved under subchapter I, X, XIV or XVI, or part A of subchapter IV, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or

(B) who is not receiving such aid or assistance and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title, but only if the income of such individual (as determined under section 1382a of this title, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1382(b)(1) of this title,

at the time of the provision of the medical assistance giving rise to such expenditure.

(g) Decrease in Federal medical assistance percentage of amounts paid for services furnished under State plan after June 30, 1973.

(1) With respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1395mm of this title), the Federal medical assistance percentage shall be decreased as follows: After an individual has received care as an inpatient in a hospital (including an institution for tuberculosis), skilled nursing facility or intermediate care facility on 60 days, or in a hospital for mental diseases on 90 days (whether or not such days are consecutive), during any fiscal year, which for purposes of this section means the four calendar quarters ending with June 30, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual in the same fiscal year shall be decreased by 33⅓ per centum thereof unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services (including tuberculosis hospitals), skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), there is in operation in the State an effective program of control over utilization of such services; such a showing must include evidence that—

(A) in each case for which payment is made under the State plan, a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and recertifies, where such services are furnished over a period of time, in such cases, at least every 60 days, and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services; and

(B) in each such case, such services were furnished under a plan established and periodically reviewed and evaluated by a physician;

(C) such State has in effect a continuous program of review of utilization pursuant to section 1396a(a)(30) of this title whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data

obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 per centum of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and

(D) such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to section 1396a(a)(26) and (31) of this title whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.

In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1395d of this title.

(2) The Secretary shall, as part of his validation procedures under this subsection, conduct sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this subchapter, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

(h) Reduction by Secretary of amount otherwise considered as expenditures under State plan where reasonable cost differential between statewide average cost of skilled nursing facility services and statewide average cost of intermediate care facility services does not exist for any calendar quarter beginning after June 30, 1973.

(1) If the Secretary determines for any calender quarter beginning after June 30, 1973, with respect to any State that there does not exist a reasonable cost differential between the statewide average cost of skilled nursing facility services and the statewide average cost of intermediate care facility services in such State, the Secretary may reduce the amount which would otherwise be considered as expenditures under the State plan by any amount which in his judgment is a reasonable equivalent of the difference between the amount of the expenditures by such State for intermediate care facility services and the amount that would have been expended by such State for such services if there had been a reasonable cost differential between the cost of skilled nursing facility services and the cost of intermediate care facility services.

(2) In determining whether any such cost differential in any State is reasonable the Secretary shall take into consideration the range of such cost differentials in all States.

(3) For the purposes of this subsection, the term "cost differential" for any State for any quarter means, as determined by the Secretary on the basis of the data for the most recent calendar quarter for which satisfactory data are available, the excess of—

(A) the average amount paid in such State (regardless of the source of payment) per inpatient day for skilled nursing facility services, over

(B) the average amount paid in such State (regardless of the source of payment) per inpatient day for intermediate care facility services.

(4) For purposes of this subsection, the term "cost" shall mean amounts reimbursable by the State under a State plan approved under this subchapter.

(i) Payment for services performed after December 31, 1972; restrictions.

Payment under the preceding provisions of this section shall not be made—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1395u(b)(3) of this title; or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under subchapter XVIII of this chapter with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1395y(d)(1) of this title or under clause (D), (E), or (F) of section 1395cc(b)(2) of this title; or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for care or services furnished under the plan by a hospital or skilled nursing facility unless such hospital or skilled nursing facility has in effect a utilization review plan which meets the requirements imposed by section 1395x(k) of this title for purposes of subchapter XVIII of this chapter; and if such hospital or skilled nursing facility has in effect such a utilization review plan for purposes of subchapter XVIII of this chapter, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this subchapter, the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his

satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1395x(k) of this title.

(j) Order by Secretary for suspension of payment; grounds for issuance; procedure; effective date and duration of order.

(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any institution during any period that an order for suspension of payment (as authorized by this subsection) is effective with respect to such institution.

(2) The Secretary may issue a suspension of payment order with respect to any institution if—

(A) such institution (i) does not (at the time such order is issued) have in effect an agreement with the Secretary which is entered into pursuant to section 1395cc of this title; and (ii) did (prior to the time such order is issued) have in effect such an agreement; and

(B) (i) the Secretary has been unable to collect (or make satisfactory arrangement for the collection of) amounts due on account of overpayments made to such institution under subchapter XVIII of this chapter; or

(ii) the Secretary has been unable to obtain from such institution the data and information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under subchapter XVIII of this chapter.

(3) Whenever the Secretary issues any order for suspension of payment under this subsection with respect to any institution, he shall submit a notice of such order to the single State agency (referred to in section 1396a(a)(5) of this title) of each State which he has reason to believe does or may utilize the services of such institution in providing medical assistance under a plan approved under this subchapter.

(4) Any order for suspension of payment issued with respect to any institution under this subsection shall become effective, in the case of any state plan approved under this subchapter, on the 60th day after the date the State agency (referred to in section 1396a(a)(5) of this title) administering or supervising the administration of such plan receives notice of such order submitted pursuant to paragraph (3). Any such order shall cease to be effective at such time as the Secretary is satisfied that the institution is participating in substantial negotiations which seek to remedy the conditions which gave rise to his order of suspension of payments, or that the amounts (referred to in paragraph (2)) are no longer due from such institution or that a satisfactory arrangement has been made for the payment by such institution of any such amounts. Upon the determination of the Secretary that any such order with respect to any such institution shall cease to be effective, he shall forthwith notify each State agency to which he has theretofore submitted notice under paragraph (3) with respect to such institution.

(5) Whenever any order which has been issued by the Secretary under the preceding provisions of this subsection with respect to an institution ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such institution shall be made to such State for the month in which such order ceases to be effective.

(k) Technical assistance to states.

The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of section 1395mm of this title for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this subchapter.

(*l*) Reduction of amounts.

Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this section if such State is found by the Secretary not to be in compliance with section 1396a(g) of this title. (As amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 207(a), 221(c)(6), 224(c), 225, 226(e), 229(c), 230, 233(c), 235(a), 237(a)(1), 249B, 278(b)(1), (5), (16), 290, 295, 299E(a), 86 Stat. 1379, 1380, 1389, 1395, 1396, 1404, 1410, 1411, 1414, 1415, 1453, 1454, 1457, 1459, 1462; July 9, 1973, Pub. L. 93–66, title II, § 234(a), 87 Stat. 160; Dec. 31, 1973, Pub. L. 93–233, §§ 13(a)(11), (12), 18(r)–(v), (x)(5), (6), (y)(1), 87 Stat. 963, 971–973; Dec. 31, 1975, Pub. L. 94–182, title I, §§ 110 (a), 111(b), 89 Stat. 1054.)

AMENDMENTS

1975—Subsec. (g)(1)(C). Pub. L. 94–182, § 110(a), added provisions specifying the method by which the size and composition of the sample of admissions subject to review is to be established.

Subsec. (*l*). Pub. L. 94–182, § 111(b), added subsec. (*l*).

1973—Subsec. (a). Pub. L. 93–233, § 18(x)(5), struck out reference to section 1317 of this title in introductory parenthetical phrase.

Subsec. (a)(1). Pub. L. 93–233, §§ 13(a)(11), 18(r)(1), substituted "individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title" for "individuals who are recipients of money payments under a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter" and inserted after "individuals sixty-five years of age or older" text reading "and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter," respectively.

Subsec. (a)(4). Pub. L. 93–233, § 18(s), substituted "sums expended with respect to costs incurred" for "sums expended."

Subsec. (a)(5). Pub. L. 93–233, § 18(t), struck out after "such quarter" parenthetical text reading "(as found necessary by the Secretary for the proper and efficient administration of the plan)."

Subsec. (b). Pub. L. 93–233, §§ 18(r)(2), (u), (x)(6), inserted in par. (2) after "individuals sixty-five years of age or older" text reading "and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter" and end text reading ", other than amounts expended under provisions of the plan of such State required by section 1396a(a)(34) of this title," and redesignated pars. (2) and (3) as (1) and (2), respectively.

Subsec. (c). Pub. L. 93–233, § 18(y)(1)(A), struck out subsec. (c) providing for Federal medical assistance percentage and Federal share of State medical expenses during fiscal year ending June 30, 1965.

Subsec. (d)(1). Pub. L. 93–233, § 18(y)(1)(B), struck out reference to subsec. (c) of this section.

Subsec. (f)(4). Pub. L. 93–233, § 13(a)(12), in subpar. (A), made payment limitations inapplicable to individual with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter; in subpar. (B), made payment limitations inapplicable to individual with respect to whom such benefits are not being paid, and in cls. (i) and (ii) inserted phrase "to have such benefits paid with respect to him", and added subpar. (C).

Subsec. (g)(1)(C). Pub. L. 93–233, § 18(v), substituted "directly responsible for the care of the patient or financially interested in any such institution or, except in the case of hospitals, employed by the institution" for "directly responsible for the care of the patient and who are not employed by or financially interested in any such institution."

Subsec. (j). Pub. L. 93–66 struck out provisions respecting skilled nursing facility services and intermediate care facility services.

1972—Subsec. (a)(1). Pub. L. 92–603, § 207(a)(2), added reference to subecs. (g) and (h) and of this section.

Subsec. (a)(3)–(6). Pub. L. 92–603, §§ 235(a), 249B, 299E(a), added pars. (3)–(5). Former subsec. (a)(3) redesignated (a)(6).

Subsec. (b)(1). Pub. L. 92–603, § 295, struck out subsec. (b)(1), which related to the amount of quarterly expenditures exceeding the average of total expenditures for each quarter of fiscal year ending June 30, 1965.

Subsec. (b)(3). Pub. L. 92–603, § 221(c)(6), added par. (3).

Subsec. (e). Pub. L. 92–603, § 230, repealed subsec. (e), which related to furnishing for comprehensive care and services by July 1, 1977.

Subsec. (g). Pub. L. 92–603, §§ 207(a)(1), 278(b)(1), added subsec. (g) and substituted "skilled nursing facility" for "skilled nursing home" and "skilled nursing facilities" for "skilled nursing homes" wherever appearing therein.

Subsec. (h). Pub. L. 92–603, §§ 207(a)(1), 278(b)(1), (5), added subsec. (h) and substituted "skilled nursing facility" for "skilled nursing home" wherever appearing therein.

Subsec. (i). Pub. L. 92–603, §§ 224(c), 229(c), 233(c), 237(a)(1), 278(b)(7), added subsec. (i) and substituted "skilled nursing facility" for "skilled nursing home" wherever appearing therein.

Subsec. (j). Pub. L. 92–603, §§ 225, 278(b)(16), added subsec. (j), relating to skilled nursing facilities services, and substituted "skilled nursing facility for "skilled nursing home" wherever appearing therein.

Subsec. (j). Pub. L. 92–603, § 290, added subsec. (j), relating to orders for suspension of payment.

Subsec. (k). Pub. L. 92–603, § 226(e), added subsec. (k).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 110(b) of Pub. L. 94–182 provided that: "The amendment made by subsection (a) [amending subsec. (g)(1)(C) of this section] shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act [Dec. 31, 1975]."

Amendment by section 111(b) of Pub. L. 94–182 effective January 1, 1976 (except as otherwise provided therein), see section 111(c) of Pub. L. 94–182, set out as a note under section 1396a of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 13(a)(11), (12) of Pub. L. 93–233 effective with respect to payments under this section for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93–233, set out as a note under section 1396a of this title.

Amendment of subsec. (b)(2) of this section by section 18(u) of Pub. L. 93–233 effective July 1, 1973, see section 18(z–3)(4) of Pub. L. 93–233, set out as a note under section 1396a of this title.

Section 234(b) of Pub. L. 93–66 provided that: "The amendment made by subsection (a) [repealing subsec. (j) of this section] shall be applicable in the case of expenditures for skilled nursing services and for intermediate care facility services furnished in calendar quarters which begin after December 31, 1972."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 207(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending subsecs. (a)(1), (g) and (h) of this section] shall, except as otherwise provided therein, be effective July 1, 1973."

Section 249B of Pub. L. 93–603, as amended by Pub. L. 93–368, § 8, Aug. 7, 1974, 88 Stat. 422, provided in part that the enactment of par. (4) of subsec. (a) and the concurrent redesignation of former par. (4) as par. (5) by section 249B of Pub. L. 92–603, and redesignation of such par. (5) as par. (6) by section 299E(a) of Pub. L. 92–603 shall be effective for the period beginning Oct. 1, 1972, and ending June 30, 1977.

Section 237(d)(1) of Pub. L. 92–603 provided that: "The amendments made by subsections (a)(1) and (b) [amending subsec. (i) of this section and section 706(f) of this title] shall apply with respect to services furnished in calendar quarters beginning after June 30, 1973."

Section 235(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to expenditures under State plans approved under title XIX of the Social Security Act [this subchapter], made after June 30, 1971."

Amendment of subsec. (i) by section 233(c) of Pub. L. 92–603 applicable with respect to services furnished by hospitals in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92–603, set out as a note under section 1395f of this title. See, also, section 16 of Pub. L. 93–233, set out as a note under section 1395f of this title.

Amendment of subsec. (k) by section 226(e) of Pub. L. 92–603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92–603, set out as a note under section 1395mm of this title.

NONDUPLICATION OF PAYMENTS TO STATES; LIMITATION ON INSTITUTIONAL CARE

Section 121(b) of Pub. L. 89–97, as amended by section 249D of Pub. L. 92–603, provided that: "No payment may be made to any State under title I, IV, X, XIV, or XVI of the Social Security Act [subchapter I, IV, X, XIV, or XVI of this chapter] with respect to aid or assistance in the form of medical or any other type of remedial care for any period for which such State receives payments under title XIX of such Act [this subchapter], or for any period after December 31, 1969. After the date of enactment of the Social Security Amendments of 1972 [Oct. 30, 1972], Federal matching shall not be available for any portion of any payment by any State under title I, X, XIV, or XVI, or part A of title IV, of the Social Security Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter] for or on account of any medical or any other type of remedial care provided by an institution to any individual as an inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act [this subchapter], if such care is (or could be) provided under a State plan approved under title XIX of such Act [this subchapter] by an institution certified under such title XIX [this subchapter]."

COMPREHENSIVE CARE AND SERVICES FOR ELIGIBLE INDIVIDUALS BY JULY 1, 1977; REQUIREMENT INAPPLICABLE FOR ANY PERIOD PRIOR TO JULY 1, 1971; REGULATIONS; ADVICE TO STATES

Section 2(b) of Pub. L. 91–56, which provided that subsection (e) of this section was inapplicable to the

period prior to July 1, 1971, and which authorized the Secretary to issue regulations, was repealed by Pub. L. 92–603, title II, § 230, Oct. 30, 1972, 86 Stat. 1410.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1396a of this title.

§ 1396d. Definitions.

For purposes of this subchapter—

(a) Medical assistance.

The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a (a)(10)(A) of this title) not receiving aid or assistance under any plan of the State approved under subchapter IX, XIV, or XVI, or part A of subchapter IV, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter, who are—

* * * * *

(iv) blind, with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter,

(v) 18 years of age or older and permanently and totally disabled, with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter.

(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approved under subchapter I, X, XIV, or XVI of this chapter, or

(vii) blind or disabled as defined in section 1382c of this title, with respect to States not eligible to participate in the State plan program established under subchapter XVI of this chapter,

but whose income and resources are insufficient to meet all of such cost—

* * * * *

(4) (A) skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older (B) effective July 1, 1969, such early and periodic screening and diagnosis of individuals who are eligible under the plan and are under the age of 21 to ascertain their physical or mental defects, and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary; and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;

(5) physicians' services furnished by a physician (as defined in section 1395x(r)(1) of this title), whether furnished in the office, the patient's home, a hospital, or a skilled nursing facility, or elsewhere;

* * * * *

(14) inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;

(15) intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases) for individuals who are determined, in accordance with section 1396a(a)(31)(A) of this title, to be in need of such care;

(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under age 21, as defined in subsection (h) of this section; and

(17) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary;

except as otherwise provided in paragraph (16).

(b) Federal medical assistance percentage; State percentage.

The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title.

(c) Intermediate care facility.

For purposes of this subchapter the term "intermediate care facility" means an institution which (1) is licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, (2) meets such standards prescribed by the Secretary as he finds appropriate for the proper provision of such care, and (3) meets such standards of safety and sanitation as are established under regulation of the Secretary in addition to those applicable to nursing facilities under State law. The term "intermediate care facility" also includes any skilled nursing facility or hospital which meets the requirements of the proceeding sentence. The term "intermediate care facility" also includes a

Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State. The term "intermediate care facility" also includes any institution which is located in a State or an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clauses (1). With respect to services furnished to individuals under age 65, the term "intermediate care facility" shall not include, except as provided in subsection (d) of this section, any public institution or distinct part thereof for mental diseases or mental defects.

(d) Intermediate care facility services.

The term "intermediate care facility services" may include services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions if—

(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and which meet such standards as may be prescribed by the Secretary;

(2) the mentally retarded individual with respect to whom a request for payment is made under a plan approved under this subchapter is receiving active treatment under such a program; and

(3) the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this subchapter, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this subchapter.

(e) Physicians' services.

In the case of any State the State plan of which (as approved under this subchapter)—

(1) does not provide for the payment of services (other than services covered under section 1396a(a)(12) of this title) provided by an optometrist; but

(2) at a prior period did provide for the payment of services referred to in paragraph (1);

the term "physicians' services" (as used in subsection (a)(5) of this section) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term "physicians' services", as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.

(f) Skilled nursing facility services.

For purposes of this subchapter, the term "skilled nursing facility services" means services which are or were required to be given an individual who needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis.

(g) Chiropractors' services.

If the State plan includes provision of chiropractors' services, such services include only—

(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1395x(r)(5) of this title; and

(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

(h) Inpatient psychiatric hospital services for individuals under age 21.

(1) For purposes of paragraph (16) of subsection (a) of this section, the term "inpatient psychiatric hospital services for individuals under age 21" includes only—

(A) inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission on Accreditation of Hospitals;

(B) inpatient services which, in the case of any individual (i) involve active treatment which meets such standards as may be prescribed in regulations by the Secretary, and (ii) a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

(C) inpatient services which, in the case of any individual, are provided prior to (A) the date such individual attains age 21, or (B) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (i) the date such individual no longer requires such services, or (ii) if earlier, the date such individual attains age 22;

(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State (and the political subdivisions thereof) from non-Federal funds for such services.

(i) Skilled nursing facility.

For purposes of this subchapter, the term "skilled nursing facility" also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as being a qualified skilled

nursing facility by meeting the requirements of section 1395x(j) of this title.

(j) State supplementary payment.

The term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under subchapter XVI of this chapter or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under subchapter XVI of this chapter, or would but for his income be payable under that subchapter.

(k) Supplemental security income benefits.

Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93–66 shall not be considered supplemental security income benefits payable under subchapter XVI of this chapter. (As amended Dec. 28, 1971, Pub. L. 92–223, § 4(a), 85 Stat. 809; Oct. 30, 1972, Pub. L. 92–603, title II, §§ 212(a), 247(b), 275(a), 278(a)(21)–(23), 280, 297(a), 299, 299B, 299E(b), 299L, 86 Stat. 1384, 1425, 1452–1454, 1459–1462, 1464; Dec. 31, 1973, Pub. L. 93–233, §§ 13(a)(13)–(48), 18(w), (x)(7)–(10), (y)(2), 87 Stat. 963, 964, 972, 973.)

REFERENCES IN TEXT

Section 211 of Pub. L. 93–66, referred to in subsec. (k), is set out as a note under section 1382 of this title entitled in part "Federal Program of Supplemental Security Income".

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–233, § 13(a)(13), substituted in introductory text "individuals (other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title) not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter" for "individuals not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter".

Subsec. (a)(iv). Pub. L. 93–233, § 13(a)(14), inserted "with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter," following "blind,".

Subsec. (a)(v). Pub. L. 93–233, § 13(a)(15), substituted "with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter," for "or".

Subsec. (a)(vi). Pub. L. 93–233, § 13(a)(16), inserted "or" at end of text.

Subsec. (a)(vii). Pub. L. 93–233, § 13(a)(17), added cl. (vii).

Subsec. (a)(16). Pub. L. 93–233, § 18(x)(7), substituted "under age 21, as defined in subsection (h) of this section; and" for "under 21, as defined in subsection (e) of this section;".

Subsec. (b). Pub. L. 93–233, § 18(y)(2), struck out "; except that the Secretary shall promulgate such percentage as soon as possible after July 30, 1965, which promulgation shall be conclusive for each of the six quarters in the period beginning January 1, 1966, and ending with the close of June 30, 1966" after "section 1301(a)(8) of this title".

Subsec. (c). Pub. L. 93–233, § 18(x)(8), substituted "skilled nursing facility" for "skilled nursing home" wherever appearing.

Subsec. (h)(1)(B). Pub. L. 93–233, § 18(w), substituted "(i) involve active treatment" for ", involves active treatment (i)"; struck out "pursuant to subchapter XVIII of this chapter" following "may be prescribed"; and substituted "(ii)" for "(ii) which", respectively.

Subsec. (h)(2). Pub. L. 93–233, § 18(x)(10), substituted "paragraph (1)" for "paragraph (e)(1)".

Subsec. (i). Pub. L. 93–233, § 18(x)(9), redesignated subsec. (h) as added by Pub. L. 92–603, § 299L(b), as subsec. (i).

Subsecs. (j), (k). Pub. L. 93–233, § 13(a)(18), added subsecs. (j) and (k).

1972—Subsec. (a). Pub. L. 92–603, § 299B(c), in material following redesignated subsec. (a)(17) substituted "as otherwise provided in paragraph (16)," for "that".

Subsec. (a)(4). Pub. L. 92–603, §§ 278(a)(21), 299E(b), substituted "skilled nursing facility" for "skilled nursing home" and added cl. (C).

Subsec. (a)(5). Pub. L. 92–603, §§ 278(a)(22), 280, substituted "skilled nursing facility" for "skilled nursing home" and inserted "furnished by a physician (as defined in section 1395x(r)(1) of this title) after "physicians' services".

Subsec. (a)(14). Pub. L. 92–603, §§ 278(a)(23), 297(a), substituted "skilled nursing facility" for "skilled nursing home" and added reference to intermediate care facility services.

Subsec. (a)(15)–(17). Pub. L. 92–603, § 299B(a), redesignated subsecs. (a)(15) as (a)(17) and (a)(16) as (a)(15), and added subsec. (a)(16).

Subsec. (c). Pub. L. 92–603, § 299L(a), added provision defining the term "intermediate care facility" with respect to any institution located in a State on an Indian reservation.

Subsec. (d)(3). Pub. L. 92–603, § 299, added provisions relating to the reduction of non-Federal expenditures in any calendar quarter prior to January 1, 1975.

Subsec. (e). Pub. L. 92–603, § 212(a), added subsec. (e).

Subsec. (f). Pub. L. 92–603, § 247(b), added subsec. (f).

Subsec. (g). Pub. L. 92–603, § 275(a), added subsec. (g).

Subsec. (h). Pub. L. 92–603, § 299B(b), added subsec. (h).

Subsec. (i). Pub. L. 92–603, § 299L(b), added subsec. (i).

1971—Subsec. (a)(16). Pub. L. 92–223, § 4(a)(1)(C), added cl. (16).

Subsecs. (c), (d). Pub. L. 92–223, § 4(a)(2), added subsecs. (c) and (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 13(a)(13)–(18) of Pub. L. 93–233 effective with respect to payments under section 1396b of this title for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93–233, set out as a note under section 1396a of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 297(b) of Pub. L. 92–603 provided that: "The amendment made by this section [amending subsec. (a)(14) of this section] shall apply with respect to services furnished after December 31, 1972."

Section 212(b) of Pub. L. 92–603 provided that: "The provisions of subsection (e) of section 1905 of the Social Security Act [subsec. (e) of this section] (as added by subsection (a) of this section) shall be applicable in the case of services performed on or after the date of enactment of this Act [Oct. 30, 1972]."

Enactment of subsec. (f) by Section 247(ee) of Pub. L. 92–603 effective with respect to services furnished after Dec. 31, 1972, see section 247(c) of Pub. L. 92–603, set out as a note under section 1395f of this title.

Section 275(b) of Pub. L. 92–603 provided that: "The amendment made by this section [enacting subsec. (g) of this section] shall be effective with respect to services furnished after June 30, 1973."

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsecs. (a)(16), (c), and (d) of this section by Pub. L. 92-223 effective Jan. 1, 1972, see section 4(d) of Pub. L. 92-223, set out as a note under section 1396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1318, 1396a, 1396b of this title.

§ 1396e. Repealed. Pub. L. 92-603, title II, § 287(a), Oct. 30, 1972, 86 Stat. 1457.

Section, act Aug. 14, 1935, ch. 531, title XIX, § 1906, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 226, 81 Stat. 903, created the Advisory Council on Medical Assistance, set forth the composition of the Council, term of membership of the members, and the purposes of the Council, and provided for the compensation of the members.

EFFECTIVE DATE OF REPEAL

Section 287(b) of Pub. L. 92-603 provided that: "The provisions of subsection (a) [which repealed this section] shall become effective on the first day of the third calendar month following the month in which this Act is enacted [Oct. 30, 1972]."

§ 1396g. State programs for licensing of administrators of nursing homes.

* * * * *

(d) Waiver of standards other than good character or suitability standards.

No State shall be considered to have failed to comply with the provisions of section 1396a(a)(29) of this title because the agency or board of such State (established pursuant to subsection (b) of this section) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c) of this section.

(e) Definitions.

As used in this section, the term—

(1) "nursing home" means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary, but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts; and

(2) "nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

(As amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 268(b), 269, 274(b), 86 Stat. 1451, 1452; Dec. 31, 1973, Pub. L. 93-233, § 18(y)(3), 87 Stat. 973.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93-233 struck out second sentence reading substantially the same as the first sentence but containing the following additional text reading "other than such standards as relate to good character or suitability if—

"(1) such waiver is for a period which ends after being in effect for two years or on June 30, 1972, whichever is earlier, and

"(2) there is provided in the State (during all of the period for which waiver is in effect), a program of training and instruction designed to enable all individuals with respect to whom any such waiver is granted, to attain the qualifications necessary in order to meet such standards" and also "calendar year" instead of "three calendar years" and reference to "subsection (c)(1) of this section" instead of "subsection (c) of this section".

Subsec. (e). Pub. L. 93-233 redesignated former subsec. (g) as (e) and repealed prior subsec. (e) relating to authorization of appropriations for fiscal years 1968 through 1972 and to limitation of grants.

Subsec. (f). Pub. L. 93-233 repealed subsec. (f) providing for creation of National Advisory Council on Nursing Home Administration and for its composition, appointment of members, the Chairman, representation of interests, functions and duties, compensation and travel expenses, technical assistance, availability of assistance and data, and termination date of Dec. 31, 1971.

Subsec. (g). Pub. L. 93-233, redesignated former subsec. (g) as (e).

1972—Subsec. (d). Pub. L. 92-603, §§ 269, 274(b), inserted references to the grant of waivers to individuals who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, have served as nursing home administrators and substituted "subsection (c)(1)" for "subsection (b)(1)".

Subsec. (g)(1). Pub. L. 92-603, § 268(b), added ", but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts" after "Secretary".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (g)(1) of this section by section 268(b) of Pub. L. 92-603 effective on Oct. 30, 1972, see section 268(c) of Pub. L. 92-603, set out as a note under section 1396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396a of this title.

§ 1396h. Offenses and penalties.

(a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Whoever furnishes items or services to an individual for which payment is or may be made in whole or in part out of Federal funds under a State plan approved under this subchapter and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this subchapter) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both. (Aug. 14, 1935, ch. 531, title XIX, § 1909, as added and amended Oct. 30, 1972, Pub. L. 92–603, title II, §§ 242(c), 278(b)(9), 86 Stat. 1419, 1454.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–603, § 278(b)(9), substituted "skilled nursing facility" for "skilled nursing home".

EFFECTIVE DATE

Section not applicable to any acts, statements, or representations made or committed prior to Oct. 30, 1972, see section 242(d) of Pub. L. 92–603, set out as a note under section 1395nn of this title.

§ 1396i. Certification and approval of skilled nursing facilities.

(a) Whenever the Secretary certifies an institution in a State to be qualified as a skilled nursing facility under subchapter XVIII of this chapter, such institution shall be deemed to meet the standards for certification as a skilled nursing facility for purposes of section 1396a(a)(28) of this title.

(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any institution which has applied for certification by him as a qualified skilled nursing facility. (Aug. 14, 1935, ch. 531, title XIX, § 1910, as added Oct. 30, 1972, Pub. L. 92–603, title II, § 249A(a), 86 Stat. 1426.)

EFFECTIVE DATE

Section effective with respect to agreements filed with the Secretary under section 1395cc of this title by skilled nursing facilities before, on, or after Oct. 30, 1972, but accepted by him on or after such date, see section 249A(e) of Pub. L. 92–603, set out as a note under section 1395cc of this title.

SUBCHAPTER XX.—GRANTS TO STATES FOR SERVICES [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 602, 622, 1315, 1316, 3024, 3195 of this title; title 40 App. section 202.

§ 1397. Authorization of appropriations.

For the purpose of encouraging each State, as far practicable[1] under the conditions in that State, to furnish services directed at the goal of—

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States under section 1397a of this title. (Aug. 14, 1935, ch. 531, title XX, § 2001, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2337.)

EFFECTIVE DATE

Section 7 of Pub. L. 93–647, as amended by Pub. L. 94–120, § 3, Oct. 21, 1975, 89 Stat. 609, provided that:

"(a)(1) The amendments made by sections 2 and 5 of this Act [enacting this subchapter and amending sections 303, 603, 1203, 1353, and 1383 note of this title] shall be effective with respect to payments for quarters commencing after September 30, 1975.

"(2) Notwithstanding the provisions of section 2004 of the Social Security Act, as amended by this Act [section 1397c of this title], the first services program year of each State shall begin on October 1, 1975, and end with the close of, at the option of the State—

"(A) the day in the twelve-month period beginning October 1, 1975, or

"(B) the day in the twelve-month period beginning October 1, 1976,

which is the last day of the twelve-month period established by the State as its services program year under that section. Notwithstanding the provisions of subsection (b) of section 2003 of the Social Security Act, as amended by this Act [section 1397b(b) of this title], the aggregate expenditures required by that subsection with respect to the first services program year of each State shall be the amount which bears the same ratio to the amount that would otherwise be required under that subsection as the number of months in the State's first services program year bears to twelve.

"(3) Notwithstanding paragraph (1) of this subsection or section 3(f) [set out as a note under section 1397a of this title], payments under title IV [subchapter IV of this chapter] or section 2002(a)(1) of the Social Security Act [section 1397a(a)(1) of this title] with respect to expenditures made prior to February 1, 1976, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act [section 1397a(a)(9)(A)(ii) of this title], so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in

[1] So in original. Probably should be "as far as practicable."

effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

"(b) The amendments made by section 3 of this Act [amending sections 303, 602, 603, 606, 622, 1203, 1308, 1315, 1316, 1320b note, and 1383 note of this title, repealing sections 801 to 805 and 1320b of this title, and enacting provisions set out as notes under section 1320b and 1397a of this title] shall be effective with respect to payments under sections 403 and 603 of the Social Security Act [sections 603 and 803 of this title] for quarters commencing after September 30, 1975, except that the amendments made by section 3(a) [amending sections 602, 603, 606 and 623 of this title] shall not be effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam."

SHORT TITLE

Section 1 of Pub. L. 93-647 provided: "That this Act [enacting this subchapter, sections 651 to 660 of this title, and section 6305 of Title 26, amending sections 303, 602, 603, 604, 606, 622, 1203, 1306, 1308, 1315, 1316, 1353, and 1383 note of this title, repealing sections 610, 801 to 805 and 1320b of this title, and enacting provisions set out as notes under this section, sections 602, 651, 1320b, and 1397a of this title] may be cited as the 'Social Services Amendments of 1974'."

§ 1397a. Payments to States; computation of amounts.

(a)(1) From the sums appropriated therefor, the Secretary shall, subject to the provisions of this section and section 1397b of this title, pay to each State, for each quarter, an amount equal to 90 per centum of the total expenditures during that quarter for the provision of family planning services and 75 per centum of the total expenditures during that quarter for the provision of other services directed at the goal of—

(A) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(B) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(C) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

(D) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(E) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

including expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Services that are directed at these goals include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts.

(2)(A) No payment with respect to any expenditures other than expenditures for personnel training or retraining directly related to the provision of services may be made under this section to any State for any fiscal year in excess of an amount which bears the same ratio to $2,500,000,000 as the population of that State bears to the population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph prior to the first day of the third month of the preceding fiscal year, as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(B) Each State with respect to which a limitation is promulgated under subparagraph (A) for any fiscal year shall, at the earliest practicable date after the commencement of such fiscal year (and in accordance with regulations prescribed by the Secretary), certify to the Secretary whether the amount of its limitation is greater or less than the amount needed by the State, for uses to which the limitation applies, for such fiscal year and, if so, the amount by which the amount of such limitation is greater or less than such need.

(C) If any State certifies, in accordance with subparagraph (B), that the amount of its limitation for any fiscal year is greater than its need for such year, then the amount of the limitation of such State for such year shall be reduced by the excess of its limitation amount over its need, and the amount of such reduction shall be available for allotment as provided in subparagraph (D).

(D) Of the amounts made available, pursuant to subparagraph (C), for allotment for any fiscal year, the Secretary (i) shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under section 1308 of this title for purposes of matching the expenditures of such jurisdictions for services pursuant to sections 303(a)(4) and (5), 603(a)(3), 1203(a) (3) and (4), and 1353(a) (3) and (4) of this title and section 1603(a) (4) and (5) of the Social Security Act: *Provided*, That if the amounts made available, pursuant to subparagraph (C), are insufficient to meet the requirements of this clause, then such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(3) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual unless—

(A) the State's services program planning meets the requirements of section 1397c of this title, and

(B) the final comprehensive annual services plan in effect when the service is provided to the individual includes the provision of that service

to a category of individuals which includes that individual in the descriptions required by section 1397c(2)(B) and (C) of this title of the services to be provided under the plan and the categories of individuals to whom the services are to be provided.

The Secretary may not deny payment under this section to any State with respect to any expenditure on the ground that it is not an expenditure for the provision of a service or is not an expenditure for the provision of a service directed at a goal described in paragraph (1) of this subsection.

(4) So much of the aggregate expenditures with respect to which payment is made under this section to any State for any fiscal year as equals 50 per centum of the payment made under this section to the State for that fiscal year must be expended for the provision of services to individuals—

(A) who are receiving aid under the plan of the State approved under part A of subchapter IV of this chapter or who are eligible to receive such aid, or

(B) whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of subchapter IV of this chapter, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid, or

(C) with respect to whom supplementary security income benefits under subchapter XVI of this chapter or State supplementary payments, as defined in section 1397f(1) of this title, are being paid, or who are eligible to have such benefits or payments paid with respect to them, or

(D) whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments, as defined in section 1397f(1) of this title, being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him, or

(E) who are eligible for medical assistance under the plan of the State approved under subchapter XIX of this chapter.

(5) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual—

(A) who is receiving, or whose needs are taken into account in determining the needs of an individual who is receiving, aid under the plan of the State approved under part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits under subchapter XVI of this chapter or State supplementary payments, as defined in section 1397f(1) of this title, are being paid, or

(B) who is a member of a family the monthly gross income of which is less than the lower of—

(i) 80 per centum of the median income of a family of four in the State, or

(ii) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

if any fee or other charge (other than a voluntary contribution) imposed on the individual for the provision of that service is not consistent with such requirements (including requirements prohibiting the imposition of any such fee or charge) as the Secretary shall prescribe.

(6) No payment may be made under this section to any State with respect to any expenditure for the provision of any service, other than an information or referral service or a service directed at the goal of preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, to any individual who is not an individual described in paragraph (5), and—

(A) who is a member of a family the monthly gross income of which exceeds 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, or

(B) who is a member of a family the monthly gross income of which—

(i) exceeds the lower of—

(I) 80 per centum of the median income of a family of four in the State, or

(II) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, and

(ii) does not exceed 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

unless a fee or other charge reasonably related to income is imposed on the individual for the provision of the service.

The Secretary shall promulgate the median income of a family of four in each State and the fifty States and the District of Columbia applicable to payments with respect to expenditures in each fiscal year prior to the first day of the third month of the preceding fiscal year.

(7) No payment may be made under this section to any State with respect to any expenditure—

(A) for the provision of medical or any other remedial care, other than family planning services, unless it is an integral but subordinate part of a service described in paragraph (1) of this subsection and Federal financial participation with respect to the expenditure is not available under the plan of the State approved under subchapter XIX of this chapter; or

(B) for the purchase, construction, or major modification of any land, building or other facility, or fixed equipment; or

(C) which is in the form of goods or services provided in kind by a private entity; or

(D) which is made from donated private funds, unless such funds—

(i) are transferred to the State and are under its administrative control, and

(ii) are donated to the State, without restrictions as to use, other than restrictions as to the services with respect to which the funds are to be used imposed by a donor who is not a sponsor or operator of a program to provide those services, or the geographic area in which the services with respect to which the contribution is used are to be provided, and

(iii) do not revert to the donor's facility or use if the donor is other than a nonprofit organization; or

(E) for the provision of room or board (except as provided by paragraph (11)(C)) other than room or board provided for a period of not more than six consecutive months as an integral but subordinate part of a service described in paragraph (1) of this subsection.

(8) No payment may be made under this section with respect to any expenditure if payment is made with respect to that expenditure under section 603 or 622 of this title.

(9)(A) No payment may be made under this section with respect to any expenditure in connection with the provision of any child day care service, unless—

(i) in the case of care provided in the child's home, the care meets standards established by the State which are reasonably in accord with recommended standards of national standard-setting organizations concerned with the home care of children, or

(ii) in the case of care provided outside the child's home, the care meets the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare and the Office of Economic Opportunity on September 23, 1968; except that (I) subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and staffing standards for school-age children in day care centers may be revised by the Secretary, (II) the staffing standards imposed with respect to such care in the case of children under age 3 shall conform to regulations prescribed by the Secretary, and (III) the staffing standards imposed with respect to such care in the case of children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10 shall require at least one adult for each 15 children,

except as provided in subparagraph (B).

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to July 1, 1977, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of that report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

(C) The requirements imposed by this paragraph are in lieu of any requirements that would otherwise be applicable under section 2932(d) of this title to child day care services with respect to which payment is made under this section.

(10) No payment may be made under this section with respect to any expenditure for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income.

(11) No payment may be made under this section with respect to any expenditure for the provision of any service to any individual living in any hospital, skilled nursing facility, or intermediate care facility (including any such hospital or facility for mental diseases or for the mentally retarded), any prison, or any foster family home except—

(A) any expenditure for the provision of a service that (i) is provided by other than the hospital, facility, prison, or foster family home in which the individual is living, and (ii) is provided, under the State's program for the provision of the services described in paragraph (1), to individuals who are not living in a hospital, skilled nursing facility, intermediate care facility, prison, or foster family home,

(B) any expenditure which is for the cost, in addition to the cost of basic foster care, of the provision, by a foster family home, to an individual living in that home, of a service which meets a special need of that individual, as determined under regulations prescribed by the Secretary, and

(C) any expenditure for the provision of emergency shelter provided to a child, for not in excess of thirty days, as a protective service.

(12) No payment may be made under this section with respect to any exepnditure for the provision of cash payments as a service.

(13) No payment may be made under this section with respect to any expenditure for the provision of any service to any individual to the extent that the provider of the service or the individual receiving the service is eligible to receive payment under subchapter XVIII of this chapter with respect to the provision of the service.

(b)(1) Prior to the beginning of each quarter the Secretary shall estimate the amount to which a State will be entitled under this section for that quarter on the basis of a report filed by the State containing its estimate of the amount to be expended during that quarter with respect to which payment must be made under this section, together with an explanation of the bases for that estimate.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to the State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated. (Aug. 14, 1935, ch. 531, title XX, § 2002, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88

Stat. 2337, and amended Oct. 21, 1975, Pub. L. 94–120, § 4(b), 89 Stat. 609.)

REFERENCES IN TEXT

Sections 1603(a) (4) and (5) of the Social Security Act, referred to in subsec. (a)(2)(D), means section 1603(a) (4) and (5) as such section existed prior to the complete reorganization and amendment of Title XVI of the Social Security Act by Pub. L. 92–603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465. See note covering Puerto Rico, Guam, and the Virgin Islands under section 1383 of this title for text of section 1603(a) (4) and (5) referred to hereinabove.

AMENDMENTS

1975—Pub. L. 94–120 made the following changes, effective only for period beginning Oct. 1, 1975, and ending Jan. 31, 1976, this section reading on and after Feb. 1, 1976, as if the amendments were not made under provision of section 4(c) of Pub. L. 94–120, set out as a note under this section: (1) added to subsec. (a)(7) an end sentence reading "With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met."; (2) added subsec. (a)(11)(D) reading "(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the further provision of services for which such individual would otherwise be eligible under this subchapter."; (3) inserted in subsec. (a)(7)(A) "(except as provided in paragraph (11)(D))" after "other remedial care"; and inserted in par. (a)(7)(E) "and paragraph (11)(D)" after "paragraph (11)(C)".

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Section 4(c) of Pub. L. 94–120 provided that: "The amendments made by this section [amending this section and section 1397b of this title] shall be effective only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7) [subsec. (a)(7) of this section], 2002(a)(11) [subsec. (a)(11) of this section], and 2003 of the Social Security Act [section 1397b of this title] shall read as they would if such amendments [amending this section and section 1397b of this title] had not been made."

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

REQUIREMENTS OF CHILD DAY CARE SERVICES

Section 3(f) of Pub. L. 93–647 provided that: "Any child day care service provided under any plan of a State approved under part A, or developed under part B, of title IV of the Social Security Act [subchapter IV of this chapter] must meet the requirements applicable, under subsection (a)(9) of section 2002 of the Social Security Act, as amended by this Act [subsec. (a)(9) of this section], to child day care services with respect to which payment is made under that section. The requirements imposed by this subsection are in lieu of any requirements that would otherwise be applicable under section 522(d) of the Economic Opportunity Act of 1964 [section 2932(d) of this title] to child day care services provided under any plan of a State approved under part A, or developed under part B, of title IV of the Social Security Act [subchapter IV of this chapter]."

STATE ALLOTMENTS AS LIMITING PAYMENTS TO STATES FOR FISCAL YEAR BEGINNING JULY 1, 1975

Section 3(j) of Pub. L. 93–647 providing that: "Notwithstanding the provisions of paragraph (2) of section 2002 (a) of the Social Security Act, as amended by this Act [subsec. (a)(2) of this section], the limitation imposed by such paragraph (2) for the fiscal year beginning July 1, 1975, with respect to any State shall be the allotment of the State for that fiscal year as determined under section 1130 of the Social Security Act [former section 1320b of this title]. In determining, for the purposes of that limitation, the total amount of the payments made to any State with respect to expenditures during the fiscal year beginning July 1, 1975, there shall be included the amount of any payments made to the State that are chargeable against the allotment of the State for the fiscal year beginning July 1, 1975, under such section 1130."

REPORT TO CONGRESS BY JULY 1, 1977

Section 4 of Pub. L. 93–647 provided that: "Prior to July 1, 1977, the Secretary shall submit to the Congress a report on the effectiveness of the program established by title XX of the Social Security Act, as amended by this Act [this subchapter], during calendar years 1975 and 1976, together with recommendations, if any, for improvements in that program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1315, 1397, 1397b, 1397c, 1397d, 1397e of this title.

§ 1397b. State programs for social services assistance.

(a) Reports.

Each State which participates in the program established by this subchapter shall make such reports concerning its use of Federal social services funds as the Secretary may by regulation provide.

(b) Aggregate expenditures from appropriated funds from State and local subdivisions.

Each State which participates in the program established by this subchapter shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions thereof for the provision of services during each services program year (as established under the requirements of section 1397a(a)(3) of this title) with respect to which payment is made under section 1397a of this title is not less than the aggregate expenditures from such appropriated funds for the provision of those services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under subchapter I, VI, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under section 1397a of this title, for each fiscal year any part of which is included in that services program year, with respect to expenditures other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under section 1397a(a)(2) of this title.

(c) Termination of payments on failure to comply.

(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsections (a) and (b) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 1397a of this title until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(2) The Secretary may suspend implementation of any termination of payments under paragraph

(1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 1397a of this title for expenditures during that period by 3 per centum for each of subsections (a) and (b) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(d) Contents of State plans.

(1) Each State which participates in the program established by this subchapter shall have a plan applicable to its program for the provision of the services described in section 1397a(a)(1) of this title which—

(A) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for any service described in section 1397a(a)(1) of this title is denied or is not acted upon with reasonable promptness;

(B) provides that the use or disclosure of information obtained in connection with administration of the State's program for the provision of the services described in section 1397a(a)(1) of this title concerning applicants for and recipients of those services will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of subchapter IV of this chapter, the plan of the State developed under part B of that subchapter, the supplemental security income program established by subchapter XVI of this chapter, or the plan of the State approved under subchapter XIX of this chapter.

(C) provides for the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency which will administer or supervise the administration of the State's program for the provision of the services described in section 1397a(a)(1) of this title;

(D) provides that the State will, in the administration of its program for the provision of the services described in section 1397a(a)(1) of this title, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the program, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(E) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in the program of the State for the provision of the services described in section 1397a(a)(1) of this title;

(F) provides, if the State program for the provision of the services described in section 1397a(a)(1) of this title includes services to individuals living in institutions or foster homes, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions or homes which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admissions policies, safety, sanitation, and protection of civil rights;

(G) provides, if the State program for the provision of the services described in section 1397a(a)(1) of this title includes child day care services, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such services which are reasonably in accord with recommended standards of national organizations concerned with standards of such services, including standards related to admission policies for facilities providing such services, safety, sanitation, and protection of civil rights;

(H) provides that the State's program for the provision of the services described in section 1397a(a)(1) of this title will be in effect in all political subdivisions of the State; and

(I) provides for financial participation by the State in the provision of the services described in section 1397a(a)(1) of this title.

Notwithstanding clause (C), if on December 1, 1974, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled approved under subchapter VI of this chapter which related to blind individuals was different from the agency which administered or supervised the administration of the rest of that plan, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled related to blind individuals may be designated to administer or supervise the administration of the portion of the State's program for the provision of the services described in section 1397a(a)(1) of this title related to blind individuals and a separate State agency may be designated to administer or supervise the administration of the rest of the program; and in such case the part of the program which each agency administers, or the administration of which each agency supervises, shall be regarded as a separate program for the provision of the services described in section 1397a(a)(1) of this title for purposes of this subchapter. The date selected by the State pursuant to section 1397c(1) of this title as the beginning of the services program year for each of the separate programs shall be the same.

(2) The Secretary shall approve any plan which complies with the provisions of paragraph (1).

(e) Termination or suspension of payments.

(1) No payment may be made under section 1397a of this title to any State which does not have a plan approved under subsection (g) of this section.

(2) In the case of any State plan which has been approved by the Secretary under subsection (d) of this section, if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

(A) that the plan no longer complies with the provisions of subsection (d)(1) of this section, or

(B) that in the administration of the plan there is a substantial failure to comply with any such provision,

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 1397a of this title until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(3) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 1397a of this title for expenditures during that period by 3 percent for each clause of subsection (d)(1) of this section with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply. (Aug. 14, 1935, ch. 531, title XX, § 2003, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2343, and amended Oct. 21, 1975, Pub. L. 94–120, § 4(a), 89 Stat. 609.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–120 added subsec. (f) text reading "The provisions of section 4582 of this title shall be applicable to services provided by any State pursuant to this subchapter with respect to individuals suffering from drug addiction or alcoholism.", effective only for period beginning Oct. 1, 1975, and ending Jan. 31, 1976, this section reading on and after Feb. 1, 1976, as if such enactment were not made under provisions of section 4(c) of Pub. L. 94–120, set out as a note under section 1397a of this title.

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a)(1) of Pub. L. 93–647, set out as a note under section 1397 of this title.

Notwithstanding the provisions of subsec. (b) of this section, the aggregate expenditures required by subsec. (b) with respect to the first services program year of each State to be the amount which bears the same ratio to the amount that would otherwise be required under subsec. (b) as the number of months in the State's first services program year bears to twelve, see section 7(a)(2) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 622, 1315, 1316, 1397a, 1397c of this title.

§ 1397c. Services program planning.

A State's services program planning meets the requirements of this section if, for the purpose of assuring public participation in the development of the program for the provision of the services described in section 1397a(a)(1) of this title within the State—

(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's services program year; and

(2) at least ninety days prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes and makes generally available (as defined in regulations prescribed by the Secretary after consideration of State laws governing notice of actions by public officials) to the public a proposed comprehensive annual services program plan prepared by the agency designated pursuant to the requirements of section 1397b(d)(1)(C) of this title and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the State's plan for the provision of the services described in section 1397a(a)(1) of this title during that year, including—

(A) the objectives to be achieved under the program,

(B) the services to be provided under the program, including at least one service directed at at least one of the goals in each of the five categories of goals set forth in section 1397a(a)(1) of this title (as determined by the State) and including at least three types of services (selected by the State) for individuals who are recipients of supplemental security income benefits under subchapter XVI of this chapter and who are in need of such services, together with a definition of those services and a description of their relationship to the objectives to be achieved under the program and the goals described in section 1397a(a)(1) of this title,

(C) the categories of individuals to whom those services are to be provided, including any categories based on the income of individuals or their families,

(D) the geographic areas in which those services are to be provided, and the nature and amount of the services to be provided in each area,

(E) a description of the planning, evaluation, and reporting activities to be carried out under the program,

(F) the sources of the resources to be used to carry out the program,

(G) a description of the organizational structure through which the program will be administered, including the extent to which public and private agencies and volunteers will be utilized in the provision of services,

(H) a description of how the provision of services under the program will be coordinated with the plan of the State approved under part A of subchapter IV of this chapter, the plan of the State developed under part B of that subchapter, the supplemental security income program established by subchapter XVI of this chapter, the plan of the State approved under subchapter XIX of this chapter, and other programs for the provision of related human services within the State, including the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population,

(I) the estimated expenditures under the program, including estimated expenditures with respect to each of the services to be provided, each of the categories of individuals to whom those services are to be provided, and each of the geographic areas in which those services are to be provided, and a comparison between estimated non-Federal expenditures under the program and non-Federal expenditures for the provision

of the services described in section 1397a(a)(1) of this title in the State during the preceding services program year, and

(J) a description of the steps taken, or to be taken, to assure that the needs of all residents of, and all geographic areas in, the State were taken into account in the development of the plan; and

(3) public comment on the proposed plan is accepted for a period of at least forty-five days; and

(4) at least forty-five days after publication of the proposed plan and prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes a final comprehensive annual services program plan prepared by the agency designed pursuant to the requirements of section 1397b(d)(1)(C) of this title and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the same information required to be included in the proposed plan, together with an explanation of the differences between the proposed and final plan and the reasons therefor; and

(5) any amendment to a final comprehensive services program plan is prepared by the agency designated pursuant to section 1397b(d)(1)(C) of this title, approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a proposed amendment on which public comment is accepted for a period of at least thirty days, and then prepared by the agency designated pursuant to section 1397b(d)(1)(C) of this title, approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a final amendment, together with an explanation of the differences between the proposed and final amendment and the reasons therefor.

(Aug. 14, 1935, ch. 531, title XX, § 2004, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2346.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a)(1) of Pub. L. 93–647, set out as a note under section 1397 of this title.

Notwithstanding the provisions of this section, the first services program year of each State to begin on October 1, 1975, and end with the close of, at the option of the State the day in the twelve-month period beginning October 1, 1975, or the day in the twelve-month period beginning October 1, 1976, which is the last day of the twelve-month period established by the State as its services program year under that section, see section 7(a)(2) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1397a, 1397b of this title.

§ 1397d. Effective date of regulations.

No final regulation published by the Secretary under this subchapter shall be effective with respect to payments under section 1397a of this title for expenditures during any quarter commencing before the beginning of the first services program year established by the State under the requirements of section 1397a(a)(3) of this title which begins at least sixty days after the publication of the final regulation. (Aug. 14, 1935, ch. 531, title XX, § 2005, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

§ 1397e. Program evaluation and assistance.

(a) Continuing evaluation.

The Secretary shall provide for the continuing evaluation of State programs for the provision of the services described in section 1397a(a)(1) of this title.

(b) Assistance in administration.

The Secretary shall make available to the States assistance with respect to the content of their services program, and their services program planning, reporting, administration, and evaluation.

(c) Report to Congress.

Within six months after the close of each fiscal year, the Secretary shall submit to the Congress a report on the operation of the program established by this subchapter during that year, including—

(1) the evaluations carried out under subsection (a) of this section and the results obtained therefrom, and

(2) the assistance provided under subsection (b) of this section during that year.

(Aug. 14, 1935, ch. 531, title XX, § 2006, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

§ 1397f. Definitions.

For purposes of this subchapter—

(1) the term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under subchapter XVI of this chapter or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits, as determined by the Secretary, and

(2) the term "State" means the fifty States and the District of Columbia.

(Aug. 14, 1935, ch. 531, title XX, § 2007, as added Jan. 4, 1975, Pub. L. 93–647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93–647, set out as a note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

Chapter 8.—LOW-INCOME HOUSING

Sec.
1437. Declaration of policy [New].
1437a. Definitions [New].
1437b. Loans and commitments to make loans for low-income housing projects; authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency; issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of Treasury [New].
1437c. Annual contributions for low-income housing projects [New].
(a) Contract authorization; amounts; use as security for obligations of public housing agency.
(b) Maximum amount of contributions; regulations; criteria for rates of contribution.
(c) Limitation on aggregate contractual contributions; contracts for annual contributions for assistance to Indian tribes, bands, etc.; contracts for preliminary loans; payments of annual contributions.
(d) Scope of contracts for loans or annual contributions.
(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions.
(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans.
(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception.
(h) Sale of project to low-income tenants by public housing agency; terms and conditions; commitment by Secretary to pay annual contribution unaffected.
1437d. Contract provisions and requirements [New].
1437e. Congregate housing; design, development and acquisition for displaced or elderly families; limitation on amounts for contracts; definition; central dining facility costs [New].
1437f. Lower-income housing assistance [New].
(a) Authorization for assistance payments.
(b) Authorization for contracts for assistance payments.
(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments.
(d) Required provisions and duration of contracts for assistance payments.
(e) Restrictions on contracts for assistance payments.
(f) Definitions.
(g) Regulations applicable for implementation of assistance payments.
(h) Nonapplicability of inconsistent provisions to contracts for assistance payments.
1437g. Annual contributions for operation of low-income housing projects [New].
(a) Determination of amounts; contract authorization; standards for payments.
(b) Limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions.
(c) Aggregate amount of contracts; increase in amount.
1437h. Implementation of provisions by Secretary [New].
(a) Preparation and submission of annual budget program; maintenance of accounts; annual audit by General Accounting Office.
(b) Availability of receipts and assets.
(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services.
Sec.
1437i. Objections of public housing agencies; contestability; full faith and credit of United States pledged as security; tax exemption [New].
1437j. Labor protection; payment of wages prevailing in locality; certification of compliance [New].
1438. Special low-income housing projects for elderly or handicapped; consultations; applicable design and equipment standards [New].
1439. Local housing assistance plan [New].
(a) Applicability of approved plan to housing assistance application; procedures upon receipt of application by Secretary of Housing and Urban Development; definitions.
(b) Housing assistance applications subject to procedures.
(c) Approval of housing assistance application for areas not subject to approved plan.
(d) Allocation and reservation of housing assistance funds; purposes.
1440. State housing finance and development agencies [New].
(a) Statement of purpose; participation by private and nonprofit developers in activities assisted.
(b) Determination of eligibility for assistance; definitions.
(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed.
(d) Requirements for guaranteed obligations.
(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of Treasury; composition; availability; issuance of obligations to Secretary of Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of Treasury of obligations; payment of expenses and charges.
(f) Technical assistance to agencies for planning and execution of development activities.
(g) Labor standards.
(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1586, 5153, 5515 of this title; title 12 sections 24, 1701z–3; title 20 sections 244, 633, 635, 645; title 25 section 640d–14.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 5–105, 5–112, 5–114, 5–116, 5–702 of the District of Columbia Code.

§ 1401. Declaration of policy.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of

Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1402. Definitions.

When used in this chapter—

(1) Low-rent housing; eligibility; continued occupancy; income-exclusions and deductions.

* * * * *

Notwithstanding any other provision of Federal law or regulations thereunder, a public agency shall not reduce welfare assistance payments to any tenant or group of tenants in low-rent housing as a result of any reduction in rent resulting from the application of the rent limitation set forth in this paragraph (1) and required by such limitation.

* * * * *

(As amended Dec. 22, 1971, Pub. L. 92–213, § 9, 85 Stat. 776.)

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

AMENDMENTS

1971—Par. (1). Pub. L. 92–213 prohibited any reduction of welfare assistance payments by public agencies to tenants or tenant groups in low-rent housing as a result of any reduction in rent resulting from the application of the rent limitation set forth in par. (1) and required by such limitation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 1412, 1504, 1586 of this title; title 12 sections 1701s, 1701z–3, 1715z, 1715z–1.

§§ 1403 to 1409.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1410. Annual contributions in assistance of low rentals.

* * * * *

(b) Limitation on particular contribution and periods.

Annual contributions shall be strictly limited to the amounts and periods necessary, in the determination of the Authority, to assure the low-rent character of the housing projects involved. Toward this end the Authority may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition or administration cost, number of dwelling units, number of persons housed, or other appropriate factors.

(c) Reduction in annual contributions; duration of contracts.

Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-rent housing project exceed its expenditures (including debt service, administration, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Authority, will effect a reduction in the amount of subsequent annual contributions. In no case shall any contract for annual contributions be made for a period exceeding sixty years: *Provided*, That, in the case of projects initiated after March 1, 1949, contracts for annual contributions shall not be made for a period exceeding forty years from the date the first annual contribution for the project is paid: *And provided further*, That the amount of the fixed annual contribution which would be established under this chapter for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established, as a maximum annual contribution in lieu of any other guaranteed contribution authorized under this section, for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition, acquisition and rehabilitation, or use under lease of structures which are suitable for low-rent housing use and obtainable in the local market.

* * * * *

(e) Limitation on aggregate contractual contributions.

The Authority is authorized to enter into contracts for annual contributions aggregating not more than $554,250,000 per annum, which limit shall be increased by $100,000,000 on August 1, 1968, and by further amounts of $225,000,000 on July 1, 1969, $320,000,000 on July 1, 1970, $225,000,000 on July 1, 1971, $150,000,000 on July 1, 1972, and $140,000,000 on July 1, 1973, but any such contracts for additional units for any one State shall not, after June 30, 1961, be entered into for more than 15 per centum of the aggregate amount not already guaranteed under contracts for annual contributions on such date: *Provided*, That subject to any contractual obligation outstanding on August 10, 1965, any units under construction within five years from the date they were reserved to a public housing agency may be reserved, allocated, or placed under contract for annual contributions in any State without limitation as to the aggregate amount of units which may be placed under contract for annual contributions in any one State: *Provided further*, That at least 30 per centum of the total amount of contracts for annual contributions entered into in any fiscal year

pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units of low-rent housing in private accommodations provided under section 1421b of this title: *And provided further*, That the Authority shall enter into only such new contracts for preliminary loans as are consistent with the numbers of dwelling units for which contracts for annual contributions may be entered into. Without further authorization from Congress, no new contracts for annual contributions beyond those herein authorized shall be entered into by the Authority. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there is authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

* * * * *

(As amended Oct. 18, 1972, Pub. L. 92–503, § 3, 86 Stat. 906; Oct. 2, 1973, Pub. L. 93–117, § 2, 87 Stat. 422.)

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93–117 authorized an increase of $140,000,000 on July 1, 1973, in the limit for aggregate contributions per annum.

1972—Subsec. (b). Pub. L. 92–503, § 3(2), repealed the proviso.

Subsec. (c). Pub. L. 92–503, § 3(3), repealed the second proviso.

Subsec. (e). Pub. L. 92–503, § 3(1), authorized an increase of $150,000,000 on July 1, 1972 in the limit for aggregate contributions per annum.

RETROACTIVE EFFECT OF REPEAL OF RIGHTS OF UNITED STATES RELATING TO SELF-LIQUIDATION OF PROJECTS

Section 206(c) of Pub. L. 87–70, as amended by Pub. L. 93–383, title II, § 205, Aug. 22, 1974, 88 Stat. 668, provided in part that: "The Secretary of Housing and Urban Development is authorized to agree with a public housing agency to the amendment of any annual contributions contract containing the provision prescribed in section 10(j) of the United States Housing Act of 1937 (as in effect prior to the enactment of the Housing and Community Development Act of 1974) [subsec. (j) of this section] so as to delete such provision and waive any rights of the United States that are accrued or may accrue under such provision."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1409, 1412, 1415, 1421b, 1457, 1504, 1586 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5–114 of the District of Columbia Code.

§ 1411. Capital grants in assistance of low rentals.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5–114 of the District of Columbia Code.

§ 1411d. Repealed. Pub. L. 93–383, title II, § 204, Aug. 22, 1974, 88 Stat. 668.

Section, act Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647, required the submission of specifications by applicants prior to the award of any contract for the construction of a project and the submission of data with respect to the acquisition of land prior to authorization to purchase such land.

§§ 1412, 1413, 1414.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1415. Preservation of low rents.

In order to insure that the low-rent character of housing projects will be preserved, and that the other purposes of this chapter will be achieved, it is provided that—

* * * * *

(7) Local responsibilities and determinations.

In recognition that there should be local determination of the need for low-rent housing to meet needs not being adequately met by private enterprise—

* * * * *

(b) the Authority shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this chapter with respect to any low-rent housing project initiated after March 1, 1949, (i) unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Authority pursuant to this chapter; (ii) unless the public housing agency has demonstrated to the satisfaction of the Authority that a gap of at least 20 per centum (except in the case of a displaced family or an elderly family) has been left

between the upper rental limits for admission to the proposed low-rent housing and the lowest rents at which private enterprise unaided by public subsidy is providing (through new construction and available existing structures) a substantial supply of decent, safe, and sanitary housing toward meeting the need of an adequate volume thereof; and

(8) Relocation payments; inclusion with development or acquisition cost for determination of loans and contributions.

The Authority may authorize the cost of relocation payments made by the public housing agencies to be included with the development of acquisition cost of any project for purposes of determining the amount of loans and annual contributions authorized to be made with respect to such project under sections 1409 and 1410 of this title, but such costs shall be separately stated as relocation costs.

* * * * *

(As amended Jan. 2, 1971, Pub. L. 91–646, title II, § 220 (a) (6), 84 Stat. 1903.)

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

AMENDMENTS

1971—Par. (7) (b) (iii). Pub. L. 91–646 deleted provision which prohibited the Authority from making any contract for loans or for annual contributions with respect to any low-rent housing project initiated after Mar. 1, 1949, unless the public housing agency had shown existence of method for temporary relocation of individuals and families displaced from project site, and provision for decent, safe, and sanitary dwellings, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within financial means of the individuals and families, for the individuals and families and accessible to places of employment. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

Par. (8). Pub. L. 91–646 deleted provision defining "relocation payment" as a payment (i) which is made to an individual, family, business concern, or nonprofit organization displaced on or after Jan. 27, 1964, from a low-rent housing project site as a result of the acquisition of real property by a public housing agency, (ii) which is not otherwise authorized under any Federal law, and (iii) which is made only on such terms and conditions, and subject to such limitations, as are authorized under section 1465(b), (c), and (d) of this title for relocation payments made to individuals, families, business concerns, or nonprofit organizations. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of provisions of par. (7) (b) (iii) and (8) second sentence by Pub. L. 91–646 not applicable to any State so long as section 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1410, 1421a, 1421b of this title; title 12 sections 1701s, 1715z, 1715z–1.

§§ 1416, 1417a to 1421a.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1421b. Low-rent housing in private accommodations.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

RETROACTIVE APPLICATION OF POLICIES OR PROCEDURES ESTABLISHED BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO RIGHTS OF OWNERS OF LEASED HOUSING

Pub. L. 93–383, title II, § 208, Aug. 22, 1974, 88 Stat. 669, provided that: "Nothing in this title [for distribution of Title II of Pub. L. 93–383, see Tables volume] or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under section 23 of the United States Housing Act of 1937 [this section] if such lease was entered into prior to the effective date of such policy or procedure."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1410 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47–801a of the District of Columbia Code.

§§ 1422, 1427 to 1430.

REVISION OF UNITED STATES HOUSING ACT OF 1937 BY PUB. L. 93–383

The United States Housing Act of 1937, as amended, was generally revised by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. The revised Act, classified to section 1437 et seq. of this title, to be effective on such date or dates as the Secretary of Housing and Urban Development prescribes, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1437. Declaration of policy.

It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project. (Sept. 1, 1937, ch. 896, § 2, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 653.)

CODIFICATION

Prior sections 1 and 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, as amended, which set out declaration of policy and defined applicable terms, respectively, were classified to former sections 1401 and 1402 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383. Similar provisions are set out in this section and section 1437a of this title.

EFFECTIVE DATE

Section 201(b) of Pub. L. 93–383 provided that: "The provisions of subsection (a) of this section [enacting sections 1437 to 1437j of this title] shall be effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after the date of the enactment of this Act [Aug. 22, 1974]; except that (1) all of the provisions of section 3(1) of the United States Housing Act of 1937, as amended by subsection (a) of this section [section 1437a(1) of this title], shall become effective on the same date, (2) all of the provisions of sections 5 and 9(c) of such Act as so amended [sections 1437c and 1437g (c) of this title] shall become effective on the same date, and (3) section 8 of such Act [section 1437f of this title] as so amended shall be effective not later than January 1, 1975."

Section 3(1) of the United States Housing Act of 1937, as amended, referred to in the above note, effective Sept. 26, 1975, see Effective Date note under section 1437a of this title.

SHORT TITLE

Section 1 of act Sept. 1, 1937, ch. 896, as added by section 201(a) of Pub. L. 93–383 provided that: "This Act [which enacted this chapter and provision set out as a note under this section] may be cited as the 'United States Housing Act of 1937'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937 [see Short Title note set out hereunder], Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

§ 1437a. Definitions.

When used in this chapter—

(1) The term, "low-income housing" means decent, safe, and sanitary dwellings within the financial reach of families of low income, and embraces all necessary appurtenances thereto. Except as otherwise provided in this section, income limits for occupancy and rents shall be fixed by the public housing agency and approved by the Secretary. The rental for any dwelling units shall not exceed one-fourth of the family's income as defined by the Secretary. Notwithstanding the preceding sentence, the rental for any dwelling unit shall not be less than the higher of (A) 5 per centum of the gross income of the family occupying the dwelling unit, and (B) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated. At least 20 per centum of the dwelling units in any project placed under annual contributions contracts in any fiscal year beginning after the effective date of this section shall be occupied by very low-income families. In defining the income of any family for the purpose of this chapter, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of any family member (other than the head of the household or his spouse) who is under eighteen years of age or is a full-time student;

(B) the first $300 of the income of a secondary wage earner who is the spouse of the head of the household;

(C) an amount equal to $300 for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years of age or who is eighteen years of age or older and is disabled or handicapped or a full-time student;

(D) nonrecurring income, as determined by the Secretary;

(E) 5 per centum of the family's gross income (10 per centum in the case of elderly families);

(F) such extraordinary medical or other expenses as the Secretary approves for exclusion; and

(G) an amount equal to the sums received by the head of the household or his spouse from, or under the direction of, any public or private nonprofit child placing agency for the care and maintenance of one or more persons who are under eighteen years of age and were placed in the household by such agency.

(2) The term "low-income families" means families of low income who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use. The term "very low-income families" means families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families. The term "families" includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 423 of this title or in sec-

tion 2691 of this title, or is handicapped, (B) a displaced person, and (C) the remaining member of a tenant family; and the term "elderly families" means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions. The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this paragraph, the term "elderly families" includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with another person who is determined under regulations of the Secretary to be a person essential to their care or well being.

(3) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the cost incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(4) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provisions of such services.

(5) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring a low-income housing project.

(6) The term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

(7) The term "state" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "low-income housing project" or "project" means (A) any low-income housing developed, acquired, or assisted by a public housing agency under this chapter, and (B) the improvement of any such housing. (Sept. 1, 1937, ch. 896, § 3, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 654.)

CODIFICATION

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, which established the United States Housing Authority, was classified to former section 1403 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 CFR 860.409, Sept. 26, 1975, 40 F.R. 44326, which provides: "The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, CFR] are published in the Federal Register (September 26, 1975)."

ESTABLISHMENT OF INCREASED MONTHLY RENTAL CHARGE FOR FAMILY OCCUPYING LOW-INCOME HOUSING UNIT; ADJUSTMENT FACTORS

Section 202 of Pub. L. 93–383 provided that: "To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 201(a) of this Act, [par. (1) of this section] would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date Note set out hereunder], the required adjustment shall be made, in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed $5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 6(c)(2) of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed $5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437f of this title.

§ 1437b. Loans and commitments to make loans for low-income housing projects; authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency; issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of Treasury.

(a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. (Sept. 1, 1937, ch. 896, § 4, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 656.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

CODIFICATION

A prior section 4 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, which provided for assistance of officers, etc., of other agencies and transfer of property to the Authority, was classified to former section 1404 of this title prior to revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen month after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437c of this title.

§ 1437c. Annual contributions for low-income housing projects.

(a) Contract authorization; amounts; use as security for obligations of public housing agency.

The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project involved. The amount of annual contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for low-income housing use and obtained in the local market. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years.

(b) Maximum amount of contributions; regulations; criteria for rates of contribution.

The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c) Limitation on aggregate contractual contributions; contracts for annual contributions for assistance to Indian tribes, bands, etc.; contracts for preliminary loans; payments of annual contributions.

The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $965,000,000 on July 1, 1974. Of the aggregate amount of contracts for annual contributions authorized to be entered into on or after July 1, 1974, the Secretary shall enter into contracts for annual contributions aggregating at least $150,000,000 per annum to assist in financing the development or acquisition cost of low-income housing projects to be owned by public housing agencies. Not more than 50 per centum of the dwelling units placed under contract pursuant to the preceding sentence may be constructed or substantially rehabilitated for ownership by public housing agencies under section 1437f of this title. In addition to the amount of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection, the Secretary shall enter into contracts for annual contributions, out of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, aggregating at least $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum, on July 1, 1975, to assist in financing the development or acquisition cost of low-income housing for families who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs, or who are wards of any State government, except that none of the funds made available under this sentence shall be available for use under section 1437f of this title. For the purpose of the preceding sentence, the annual contributions for a project shall, notwithstanding any other provision of this chapter, be equal to the difference between the sum of the total debt service payment plus approved operating costs, and the rental payments that tenants are required to make under section 1437a(1) of this title. The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 1437b(b) of this title (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(d) Scope of contracts for loans or annual contributions.

Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions.

In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this chapter unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this chapter.

(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans.

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the low-income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the

rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception.

In addition to the authority of the Secretary under subsection (a) of this section to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) Sale of project to low-income tenants by public housing agency; terms and conditions; commitment by Secretary to pay annual contribution unaffected.

Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its low-income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section. (Sept. 1, 1937, ch. 896, § 5, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 656.)

CODIFICATION

A prior section 5 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, which enumerated miscellaneous powers and functions of the Authority, was classified to former section 1405 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of this section shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437d, 1437f, 1437g, 1437i of this title.

§ 1437d. Contract provisions and requirements.

(a) Secretary may include in any contract for loans, annual contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such convenants,[1] conditions, or provisions as he may deem necessary in order to insure the low-income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) Every contract made pursuant to this chapter for loans (other than preliminary loans) or annual contributions shall provide that the cost of construction and equipment of the project (excluding land, demolition, and nondwelling facilities) on which the computation of any annual contributions under this chapter may be based shall not exceed by more than 10 per centum the appropriate prototype cost for the area. The prototype costs shall be determined at least annually by the Secretary on the basis of his estimate of the construction costs of new dwelling units of various types and sizes in the area suitable for occupancy by persons assisted under this chapter. In making his determination the Secretary shall take into account (1) the extra durability required for safety and security and economical maintenance of such housing, (2) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (3) the application of good design as an essential component of such housing for safety and security as well as other purposes, (4) the maintenance of quality in architecture to reflect the standards of the neighborhood and community, (5) the need for maximizing the conservation of energy for heating, lighting, and other purposes, (6) the effectiveness of existing cost limits in the area, and (7) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(c) Every contract for annual contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project at intervals of two years (or at shorter intervals where the Secretary deems it desirable);

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management

[1] So in original.

practices will be followed in the operation of the project, including requirements pertaining to—

(A) the establishment of tenant selection criteria designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively; and

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership.

(d) Every contract for annual contributions with respect to a low-income housing project shall provide that no annual contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by annual contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the annual shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1437c(e)(2) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the annual shelter rents charged in such project.

(e) Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes, which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions.

(f) Every contract for annual contributions shall provide that when the public housing agency and the Secretary mutually agree that a housing project is obsolete as to physical condition, or location, or other factors, making it unusable for housing purposes, a program of modifications or closeout shall be prepared. If it is mutually determined that such project can be returned to useful life, then the Secretary is authorized to utilize such annual contributions as are necessary to enable the local public housing agency to undertake an agreed-upon program of modifications. If it is mutually determined that no program of modification is feasible or that such a program would not return the housing to a useful life, then the Secretary is authorized to prepare a closeout program, utilizing such annual contributions as are necessary to accommodate the outstanding indebtedness on the project, the cost of demolition (if the physical improvements are not to be sold), and the cost of relocating displaced families into satisfactory replacement housing. The net closeout cost to the Federal Government shall take into consideration any receipts from the sale of physical improvements, land, or other assets, pursuant to the provisions of the annual contributions contract.

(g) Every contract for annual contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the

right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisons which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this chapter) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract. (Sept. 1, 1937, ch. 896, § 6, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 659.)

CODIFICATION

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, which enumerated financial provisions applicable to the Authority, was classified to former section 1406 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437f of this title; title 12 section 24.

§ 1437e. Congregate housing; design, development and acquisition for displaced or elderly families; limitation on amounts for contracts; definitions; central dining facility costs.

The Secretary shall encourage public housing agencies, in providing housing predominantly for displaced or elderly families, to design, develop, or otherwise acquire such housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing: *Provided,* That no more than 10 per centum of the total amount of contracts for annual contributions entered into any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970, or under any law subsequently enacted shall be entered into with respect to units in congregate housing. As used in this section the term "congregate housing" means low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation. Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered one of the costs of operation of the project. (Sept. 1, 1937, ch. 896, § 7, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 662.)

REFERENCES IN TEXT

Section 202 of the Housing and Urban Development Act of 1970, referred to in the text, is section 202 of Pub. L. 91–609, title II, Dec. 31, 1970, 84 Stat. 1776, which amended section 1410(e) of this title, and has been omitted in the general revision of this chapter by section 201(a) of Pub. L. 93–383.

CODIFICATION

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which required publication of information and submission of annual report by the Authority, was classified to former section 1407 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1437f. Lower-income housing assistance.

(a) Authorization for assistance payments.

For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing, newly constructed, and substantially rehabilitated housing in accordance with the provisions of this section.

(b) Authorization for contracts for assistance payments.

(1) The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) To the extent of annual contributions authorizations under section 1437c(c) of this title, the Secretary is authorized to make assistance payments pursuant to contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units shall be available for occupancy by lower-income families in accordance with the provisions of this section. The Secretary may also enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to such owners or prospective owners.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments.

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a local housing assistance plan as defined in section 1439(a)(5) of this title. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A).

(C) Adjustments in the maximum rents as hereinbefore provided shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Secretary.

(3) The amount of the monthly assistance payment with respect to any dwelling unit, in the case of a large very low-income family, a very large lower income family, or a family with exceptional medical or other expenses, as determined by the Secretary, shall be the difference between 15 per centum of one-twelfth of the annual income of the family occupying the dwelling unit and the maximum monthly rent which the contract provides that the owner is to receive for the unit. In the case of other families, the Secretary shall establish the amount of the assistance payment as the difference between not less than 15 per centum nor more than 25 per centum of the family's income and the maximum rent, taking into consideration the income of the family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the family. Reviews of family income shall be made no less frequently than annually (except that such reviews may be made at intervals no longer than two years in the case of families who are elderly families).

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit.

(5) Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration.

(6) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(7) At least 30 per centum of the families assisted under this section with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.

(8) To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section.

(d) Required provisions and duration of contracts for assistance payments.

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency;

(B) the agency shall have the sole right to give notice to vacate, with the owner having the right to make representation to the agency for termination of tenancy;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months.

(e) Restrictions on contracts for assistance payments.

(1) The Secretary shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than one month or more than two hundred and forty months. In the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the term may not exceed four hundred and eighty months.

(2) The contract between the Secretary and the owner with respect to newly constructed or substantially rehabilitated dwelling units shall provide that all ownership, management, and maintenance responsibilities, including the selection of tenants and the termination of tenancy, shall be assumed by the owner (or any entity, including a public housing agency, approved by the Secretary, with which the owner may contract for the performance of such responsibilities).

(3) The construction or substantial rehabilitation of dwelling units to be assisted under this section shall be eligible for financing with mortgages insured under the National Housing Act. Assistance with respect to such dwelling units shall not be withheld or made subject to preferences by reason of the availability of mortgage insurance pursuant to section 1715z–9 of Title 12 or by reason of the tax-exempt status of the bonds or other obligations to be used to finance such construction or rehabilitation.

(4) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(f) Definitions.

As used in this section—

(1) the term "lower income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(2) the term "very low-income families" means those families whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(3) the term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary;

(4) the term "owner" means any private person or entity, including a cooperative, or a public housing agency, having the legal right to lease or sublease newly constructed or substantially rehabilitated dwelling units as described in this section; and

(5) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(g) Regulations applicable for implementation of assistance payments.

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of Title 12.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments.

The provisions of sections 1437a(1), 1437c(c), and 1437d of this title, and any other provisions of this chapter, which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section. (Sept. 1, 1937, ch. 896, § 8, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 662.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(3), is classified to section 1701 et seq. of Title 12, Banks and Banking.

CODIFICATION

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized the promulgation of rules and regulations by the Authority, was classified to former section 1408 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective not later than Jan. 1, 1975, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

RENTAL OR INCOME CONTRIBUTIONS; USE OF SPECIAL SCHEDULES OF REQUIRED PAYMENTS FOR PARTICIPANTS IN MUTUAL HELP PROJECTS CONTRIBUTING LABOR, ETC.

Section 203 of Pub. L. 93–383 provided that: "The rental or income contribution provisions of the United States Housing Act of 1937, as amended by section 201 of this Act [sections 1437 to 1437j of this title], shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land, or materials to the development of such projects."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437j of this title; title 12 section 1715l; title 40 App. section 207.

§ 1437g. Annual contributions for operation of low-income housing projects.

(a) Determination of amounts; contract authorization; standards for payments.

In addition to the contributions authorized to be made for the purposes specified in section 1437c of this title, the Secretary may make annual contributions to public housing agencies for the operation of low-income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (1) to assure the low-income character of the projects involved, and (2) to achieve and maintain adequate operating services and reserve funds. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment subject to the availability of funds. For purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project.

(b) Limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions.

The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by a public housing agency receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

(c) Aggregate amount of contracts; increase in amount.

Of the aggregate amount of contracts for annual contributions authorized in section 1437c(c) of this title to be entered into on or after July 1, 1974, the Secretary is authorized to enter into contracts for annual contributions under this section aggregating not more than $500,000,000 per annum, which amount shall be increased by $60,000,000 on July 1, 1975. (Sept. 1, 1937, ch. 896, § 9, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 666.)

CODIFICATION

A prior section 9 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized loans for low-rent housing and slum clearance projects, was classified to former section 1409 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383. Similar provisions are set out as section 1437b of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of subsec. (c) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1437h. Implementation of provisions by Secretary.

(a) Preparation and submission of annual budget program; maintenance of accounts; annual audit by General Accounting Office.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended; and

(2) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, as amended, and no other audit shall be required.

(b) Availability of receipts and assets.

All receipts and assets of the Secretary under this chapter shall be available for the purposes of this chapter until expended.

(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services.

The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this chapter, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon. (Sept. 1, 1937, ch. 896, § 10, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 666.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (a), is classified to section 841 et seq. of Title 31, Money and Finance.

CODIFICATION

A prior section 10 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized annual contributions in assistance of low rentals for housing projects, was classified to former section 1410 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383. Similar provisions are set out as section 1437c of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1437i. Obligations of public housing agencies; contestability; full faith and credit of United States pledged as security; tax exemption.

(a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 1437c(g) of this title, obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States. (Sept. 1, 1937, ch. 896, § 11, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 667.)

CODIFICATION

A prior section 11 of act Sept. 1, 1937, ch. 896, 50 Stat. 893, as amended, which authorized capital grants to public housing agencies in assistance of low rentals, was classified to former section 1411 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1437j. Labor protection; payment of wages prevailing in locality; certification of compliance.

Any contract for loans, annual contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract. (Sept. 1, 1937, ch. 896, § 12, as added Aug. 22, 1974, Pub. L. 93–383, title II, § 201(a), 88 Stat. 667.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

A prior section 12 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, which authorized the disposal of low-rent housing projects transferred to or acquired by the Authority, was classified to former section 1412 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93–383.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

§ 1438. Special low-income housing projects for elderly or handicapped; consultations; applicable design and equipment standards.

The Secretary shall consult with the Secretary of Health, Education, and Welfare to insure that special projects for the elderly or the handicapped authorized pursuant to this chapter shall meet acceptable standards of design and shall provide quality services and management consistent with the needs of the occupants. Such projects shall be specifically designed and equipped with such "related facilities" (as defined in section 1701q(d)(8) of Title 12) as may be necessary to accommodate the special environmental needs of the intended occupants and shall be in support of and supported by the applicable State plans for comprehensive services pursuant to section 2674 of this title or State and area plans pursuant to title III of the Older Americans Act of 1965. (Pub. L. 93–383, title II, § 209, Aug. 22, 1974, 88 Stat. 669.)

REFERENCES IN TEXT

Title III of the Older Americans Act of 1965, referred to in text, is classified to section 3021 et seq. of this title.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974 and not as part of the United States Housing Act of 1937, which comprises this chapter.

§ 1439. Local housing assistance plan.

(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions.

(1) The Secretary of Housing and Urban Development, upon receiving an application for housing and assistance under this chapter, section 1715z or 1715z–1 of Title 12, section 1701s of Title 12, or section 1701q of Title 12, if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistance plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reasons therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph

(1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 5304 of this title or, in the case of a unit of general local government not participating under title I of this Act, a housing plan approved by the Secretary as meeting the requirements of this section.

(b) Housing assistance applications subject to procedures.

The provisions of subsection (a) of this section shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 or title VII of the Housing and Urban Development Act of 1970 which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) of this section shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

(c) Approval of housing assistance application for areas not subject to approved plan.

For areas in which an approved local housing assistance plan is not applicable the Secretary shall not approve an application for housing assistance unless he determines that there is a need for such assistance, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall affort the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following receipt of an application by him, to provide comments or information relevant to the determination required to be made by the Secretary under this subsection.

(d) Allocation and reservation of housing assistance funds; purposes.

(1) In allocating financial assistance under the provisions of law specified in subsection (a) of this section, the Secretary, so far as practicable, shall consider the relative needs of different areas and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions, subject to such adjustments as may be necessary to assist in carrying out activities designed to meet lower income housing needs as described in approved housing assistance plans submitted by units of general local government or combinations of such units assisted under section 5307(a)(2) of this title. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of such assistance.

(2) In order to facilitate the provision of, and long-range planning for, housing for persons of low- and moderate-income in new community developments approved under title IV of the Housing and Urban Development Act of 1968 and title VII of the Housing and Urban Development Act of 1970, the Secretary shall reserve such housing assistance funds as he deems necessary for use in connection with such new community developments.

(3) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof. (Pub. L. 93–383, title II, § 213, Aug. 22, 1974, 88 Stat. 674.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (a)(5), is title I of Pub. L. 93–383, §§ 101 to 118, Aug. 22, 1974, 88 Stat. 633 to 653. For distribution in this Code, see Tables volume. Title I is classified generally to chapter 69 (section 5301 et seq.) of this title.

Title IV of the Housing and Urban Development Act of 1968, referred to in subsecs. (b) and (d), is classified to section 3901 et seq. of this title.

Title VII of the Housing and Urban Development Act of 1970, referred to in subsecs. (b) and (d), is classified to section 4501 et seq. of this title.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974 and not as part of the United States Housing Act of 1937, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437f of this title.

§ 1440. State housing finance and development agencies.

(a) Statement of purpose; participation by private and nonprofit developers in activities assisted.

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of

land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b) Determination of eligibility for assistance; definitions.

(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a) of this section.

(2) For the purpose of this section—

(A) the term "State housing finance or State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term "Secretary" means the Secretary of Housing and Urban Development.

(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed.

(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a) of this section, except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) of this section may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 33⅓ per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h) (2) of this section, except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(d) Requirements for guaranteed obligations.

The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) of this section will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of Treasury; composition; availability, issuance of obligations to Secretary of Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of Treasury of obligations; payment of expenses and charges.

(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) of this section and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c) of this section; (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and (E) such sums,

which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c) of this section. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) Technical assistance to agencies for planning and execution of development activities.

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) Labor standards.

All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended: *Provided*, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies.

(1) In the performance of, and with respect to, the functions, powers, and duties rested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of Title 26. (Pub. L. 93–383, title VIII, § 802 (a)–(h), Aug. 22, 1974, 88 Stat. 722–725.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (c)(1), is title I of Pub. L. 93–383, §§ 101–118, Aug. 22, 1974, 88 Stat. 633–653. For distribution of such Title in this Code, see Tables volume. Title I is classified generally to chapter 69 (section 5301 et seq.) of this title.

The Second Liberty Bond Act, referred to in subsec. (e), is Act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

The Davis-Bacon Act, as amended, referred to in subsec. (g), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974 and not as part of the United States Housing Act of 1937, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 371, 1464.

Chapter 8A.—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

SUBCHAPTER II.—SLUM CLEARANCE AND URBAN RENEWAL

Sec.
1453a. Administrative priority for applications relating to activities in areas affected by base closings [New].

SUBCHAPTER III.—FARM HOUSING

1490e. Programs of technical and supervisory assistance for low-income individuals and families in rural areas [New].
(a) Grants or contracts with public or private nonprofit corporations, etc., for assistance; preferential treatment of applications sponsored by governmental entity or public body.
(b) Loans to public or private nonprofit corporations, etc., for necessary planning and financing expenses; interest rates; factors determinative of amount; terms and conditions of repayment; cancellation.
(c) Authorization of appropriations; availability of amounts.
(d) Deposit of appropriated funds into low-income sponsor fund; availability; administration of fund as revolving fund; deposit of repayments.
1490f. Loans and insurance of loans for condominium housing in rural areas [New].
(a) Individual loans and insurance of loans to low or moderate income persons or families for purchase of units; terms and conditions.
(b) Scope of individual loans and insurance of loans; condominium requirements.
(c) Blanket loans and insurance of loans; terms and conditions; certification by borrower of future ownership of multifamily project; maximum amount of principal obligation.
(d) Definitions.
1490g. Mobile homes and mobile home sites; inclusion within application of term "housing" for provisions of subchapter; financing requirements; terms and conditions of loans [New].

CHAPTER REFERRED TO IN OTHER SECTION

This chapter is referred to in section 2985c of this title.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 1441. Congressional declaration of national housing policy.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, [see Short Title note set out hereunder], Demonstration Cities, and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969 and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

§ 1441a. National housing goals.

(a) Congressional findings and reaffirmation of goals.

The Congress finds that the supply of the Nation's housing is not increasing rapidly enough to meet the national housing goal, established in the Housing Act of 1949, of the "realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family". The Congress reaffirms this national housing goal and determines that it can be substantially achieved within the next decade by the construction or rehabilitation of twenty-six million housing units, six million of these for low and moderate income families.

(b) Additional Congressional findings.

The Congress further finds that policies designed to contribute to the achievement of the national housing goal have not directed sufficient attention and resources to the preservation of existing housing and neighborhoods, that the deterioration and abandonment of housing for the Nation's lower income families has accelerated over the last decade, and that this acceleration has contributed to neighborhood disintegration and has partially negated the progress toward achieving the national housing goal which has been made primarily through new housing construction.

(c) Congressional declaration of purposes.

The Congress declares that if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal services. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but has not yet become acute. (As amended Pub. L. 93–383, title VIII, § 801 (1), (2), Aug. 22, 1974, 88 Stat. 721.)

AMENDMENTS

1974—Pub. L. 93–383 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723e; title 40 section 461.

§ 1441b. Plan for elimination of all substandard housing and realization of national housing goal; report of the President to the Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723e; title 40 section 461.

§ 1441c. Annual reports of the President to the Congress; contents.

On February 5, 1970, and on each succeeding year through 1979, the President shall submit to the Congress a report which shall—

* * * * *

(3) provide an assessment of development and progress during the preceding fiscal year with respect to the preservation of deteriorating housing and neighborhoods and indicate the efforts to be undertaken in future years to encourage such action;

(4) project residential mortgage market needs and prospects for the coming calendar year including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such period, in order to achieve the objectives of the plan;

(5) provide an analysis of the monetary and fiscal policies of the Government for the coming calendar year required to achieve the objectives

of the plan and the impact upon the domestic economy of achieving the plan's objectives for such period;

(6) make recommendations with respect to any additional legislative or administrative action which is necessary or desirable to achieve the objectives of the plan; and

(7) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

(As amended Pub. L. 93-363, title VIII, § 801(3), Aug. 22, 1974, 88 Stat. 722.)

AMENDMENTS

1974—Cl. (3). Pub. L. 93-383 added cl. (3). Former cl. (3) was redesignated as (4).

Cls. (4)-(7). Pub. L. 93-383 redesignated former cls. (3) to (6) as (4) to (7), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723e; title 40 section 461.

SUBCHAPTER II.—SLUM CLEARANCE AND URBAN RENEWAL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5305, 5306, 5312, 5316 of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 5-703, 5-705, 5-717a, 5-724, 5-726, 5-736 of the District of Columbia Code.

PART A—URBAN RENEWAL PROJECTS, DEMOLITION PROGRAMS, AND CODE ENFORCEMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5306, 5312, 5316 of this title.

§ 1451. Local programs.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-717a of the District of Columbia Code.

§ 1452b. Rehabilitation loans.

(a) Considerations.

The Secretary is authorized, through the utilization of local public and private agencies where feasible, to make loans as herein provided to the owners and tenants of property to finance the rehabilitation of such property. No loan shall be made under this section unless—

(1) (A) * * *

* * * * *

(C) (i) the property has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act, and (ii) the loan is made to the owner or tenant of the property to finance rehabilitation which the Secretary determines to be necessary to make the property meet reasonable underwriting standards; or

(D) the rehabilitation is a part of, or is necessary or appropriate to the execution of, an approved community development program under title I of the Housing and Community Development Act of 1974 or an approved urban homestead program under section 1706e of Title 12;

* * * * *

(d) Authorization of appropriations; revolving fund.

There is authorized to be appropriated not to exceed $150,000,000 for each fiscal year ending prior to July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975, which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans.

* * * * *

(h) Termination date.

No loan shall be made under the authority of this section after the close of the two-year period beginning on August 22, 1974, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section before the close of that period. (As amended Pub. L. 93-85, § 4, Aug. 10, 1973, 87 Stat. 221; Pub. L. 93-117, § 10, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93-383, title I, § 116(e), Aug. 22, 1974, 88 Stat. 652; Pub. L. 94-50, title III, § 301, July 2, 1975, 89 Stat. 256.)

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1974, referred to in subsec. (a)(1)(D), is title I of Pub. L. 93-383, §§ 101-118, Aug. 22, 1974, 88 Stat. 633-853. For distribution of such Title in this Code, see Tables volume. Title I is classified generally to chapter 69 (section 5301 et seq.) of this title.

CODIFICATION

The urban homestead program under section 1706e of Title 12, referred to in subsec. (a)(1)(D), was, in the original, a reference to the urban homestead program under section 809 of the Housing and Community Development Act of 1974. Section 810 of such Act relates to urban homesteading, and for purposes of classification reference has been editorially translated as section 1706e as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (d). Pub. L. 94-50, § 301(b), added "ending prior to July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975" after "each fiscal year".

Subsec. (h). Pub. L. 94-50, § 301(a), substituted "two-year" for "one-year".

1974—Subsec. (a)(1)(D). Pub. L. 93-383, § 116(e)(2), added subsec. (a)(1)(D).

Subsec. (h). Pub. L. 93-383, § 116(e)(1), extended authority from after Oct. 1, 1974 to after the close of the one year period beginning on Aug. 22, 1974.

1973—Subsec. (h). Pub. L. 93-117 extended the termination date from October 1, 1973, to October 1, 1974.

Pub. L. 93-85 extended the termination date from June 30, 1973 to October 1, 1973.

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 1460, 5306 of this title; title 12 section 1701z-4.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1453. Grants for urban renewal projects.

* * * * *

(b) Limitation on aggregate amount of grants; authorization of appropriations; repayment of certain uncollectible loans.

The Secretary may, with the approval of the President, contract to make grants under this subchapter aggregating not to exceed $7,600,000,000, which amount shall be increased by $1,400,000,000 on July 1, 1969, by $1,700,000,000 on July 1, 1970, by $1,500,000,000 on July 1, 1971, by $250,000,000 on July 1, 1972, and $664,000,000 on July 1, 1973, and by such sums as may be necessary thereafter. Not less than 35 per centum of the amounts available to the Secretary for grants under this subchapter during each of the fiscal years commencing after June 30, 1969 and ending prior to July 1, 1974, shall be for grants under part B. In addition to the authority to make grants provided in the first sentence of this subsection, the Secretary may contract to make grants under this subchapter, on or after July 1, 1967, in an amount not to exceed $600,000,000: *Provided,* That the authority to contract to make grants provided by this sentence shall be exercised only with respect to an urban renewal project which is identified and scheduled to be carried out as one of the projects or activities included within an approved comprehensive city demonstration program assisted under the provisions of section 3305(c) of this title. Such grants shall not be used for major long-term capital improvement; shall not exceed two-thirds of the cost, as determined or estimated by the Secretary, of the project for which the grant is made; and shall be subject to such other terms and conditions as he may prescribe. The Secretary is authorized, notwithstanding the provisions of section 529 of Title 31, to make advance or progress payments on account of any grant contracted to be made pursuant to this section. The faith of the United States is solemnly pledged to the payment of all grants contracted for under this subchapter, and there are authorized to be appropriated out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments: *Provided,* That any amounts so appropriated shall also be available for repaying to the Secretary of the Treasury, for application to notes of the Secretary, the principal amounts of any funds advanced to local public agencies under this subchapter which the Secretary determines to be uncollectible because of the termination of activities for which such advances were made, together with the interest paid or accrued to the Secretary of the Treasury (as determined by him) attributable to notes given by the Secretary in connection with such advances, but all such repayments shall constitute a charge against the authorization to make contracts for grants contained in this section: *Provided further,* That no such determination of the Secretary shall be construed to prejudice the rights of the United States with respect to any such advance.

* * * * *

(As amended Oct. 18, 1972, Pub. L. 92–503, § 4, 86 Stat. 906; Oct. 2, 1973, Pub. L. 93–117, § 5, 87 Stat. 422; Aug. 22, 1974, Pub. L. 93–383, title I, § 116(c), 88 Stat. 652.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383, § 116(c), added authorization for increases in grants by such sums as necessary thereafter.

1973—Subsec. (b). Pub. L. 93–117 added provision authorizing an increase by $664,000,000 on July 1, 1973, in the aggregate amount of grants.

1972—Subsec. (b). Pub. L. 92–503 added provision authorizing an increase by $250,000,000 on July 1, 1972 in the aggregate amount of grants.

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1450, 1451, 1452a, 1453a, 1456, 1460, 1466, 1467, 1468, 1468a, 1469a, 1469c of this title; title 31 section 711.

§ 1453a. Administrative priority for applications relating to activities in areas affected by base closings.

The Secretary of Housing and Urban Development, in processing applications for assistance under section 103 of the Housing Act of 1949, section 111 of the Demonstration Cities and Metropolitan Development Act of 1966, section 708(a)(1) and (2) of the Housing and Urban Development Act of 1965 (for grants authorized under sections 702 and 703 of such Act), section 312 of the Housing Act of 1964, section 701(b) of the Housing Act of 1954, and section 708 of the Housing Act of 1961, shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure or employment at any Department of Defense installation located in or near such State or unit of local government. (Pub. L. 93–117, § 14, Oct. 2, 1973, 87 Stat. 423.)

REFERENCES IN TEXT

Section 103 of the Housing Act of 1949, referred to in the text, is classified to section 1453 of this title.

Section 111 of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in the text is classified to section 3311 of this title.

Section 708(a)(1) and (2) of the Housing and Urban Development Act of 1965, and sections 702 and 703 of such Act are classified to sections 3108(a)(1), and (2), 3102, and 3103 of this title, respectively.

Section 312 of the Housing Act of 1964, is classified to section 1452b of this title.

Section 701(b) of the Housing Act of 1954, is classified to section 461(b) of Title 40, Public Buildings, Property, and Works.

Section 708 of the Housing Act of 1961, is classified to section 1500d of this title.

CODIFICATION

Section was not enacted as part of Title I of the Housing Act of 1949, which comprises this subchapter.

§ 1455. Requirements for loan- or capital-grant contracts.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5–717a of the District of Columbia Code.

§ 1455a. Repealed. Pub. L. 93-383, title II, § 204, Aug. 22, 1974, 88 Stat. 668.

Section, act Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647, required the submission of specifications by applicants prior to the award of any contract for the construction of a project and the submission of data with respect to the acquisition of land prior to authorization to purchase such land.

§ 1457. Property to be used for public housing or housing for low or moderate income families or individuals.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-717a of the District of Columbia Code.

§ 1458. Disposition of surplus Federal real property; sale at fair market value; disposition of net proceeds.

DELEGATION OF FUNCTIONS

Authority of the President under this section to transfer, or cause to be transferred, to the Secretary of Housing and Urban Development any right, title or interest held by the Federal Government or any department or agency thereof in any land (including buildings thereon) which is surplus to the needs of the Government and which a local public agency certifies will be within the area of a project being planned by it, delegated to the Administrator of General Services, see section 1(21) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1460. Definitions.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 5-717a, 5-723 of the District of Columbia Code.

§ 1465. Repealed. Pub. L. 91-646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903.

Section, act July 15, 1949, ch. 338, title I, § 114, as added Sept. 2, 1964, Pub. L. 88-560, title III, § 310(a), 78 Stat. 788, and amended Aug. 10, 1965, Pub. L. 89-117, title I, § 101(i), title IV, § 404(b), (c) (1), 79 Stat. 453, 486; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 516, 82 Stat. 526; Dec. 31, 1970, Pub. L. 91-609, title II, § 212, 84 Stat. 1779, related to relocation assistance, providing as follows: subsec. (a), financial assistance to displaced individuals, families, businesses, and nonprofit organizations; subsec. (b), payments to business concerns or nonprofit organizations, considerations, and maximum amounts; subsec. (c), payments to individuals and families, considerations, computation of amount, maximum amounts, and restrictions; subsec. (d), payments to individuals, families, business concerns, and nonprofit organizations for recording fees, transfer taxes, incidental expenses, penalty costs, and pro rata taxes; and subsec. (e), rules and regulations, finality of administrative decisions, and promptness of payments. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a note under section 4621 of this title.

PART B—NEIGHBORHOOD DEVELOPMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1453, 5306 of this title.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 5-719a of the District of Columbia Code.

SUBCHAPTER III.—FARM HOUSING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 section 1932; title 12 section 371, 1721, 2803.

§ 1471. Financial assistance by Secretary of Agriculture.

(a) Authorization and purposes of assistance.

The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, subject to the terms and conditions of this subchapter, to extend financial assistance, through the Farmers Home Administration, (1) to owners of farms in the United States and in the Territories of Alaska and Hawaii and in the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, to enable them to construct, improve, alter, repair, or replace dwellings and other farm buildings on their farms, and to purchase buildings and land constituting a minimum adequate site, in order to provide them, their tenants, lessees, sharecroppers, and laborers with decent, safe, and sanitary living conditions and adequate farm buildings as specified in this subchapter, and (2) to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings and to rural residents for such purposes and for the purchase of buildings and the purchase of land constituting a minimum adequate site, in order to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations, and (3) to elderly persons who are or will be the owners of land in rural areas for the construction, improvement, alteration, or repair of dwellings and related facilities, the purchase of dwellings and related facilities and the purchase of land constituting a minimum adequate site, in order to provide them with adequate dwellings and related facilities for their own use, and (4) to an owner described in clause (1), (2), or (3) for refinancing indebtedness which—

(A) was incurred for an eligible purpose described in such clause,

(B) if not refinanced, is likely to result at an early date in loss of the applicant's necessary dwelling or essential farm service buildings, or, if combined with a loan for improvements, rehabilitation, or repairs and not refinanced, is likely to cause a hardship for the applicant, and

(C) was incurred by the applicant at least five years prior to his applying for assistance under this subchapter.

(b) Definitions.

* * * * *

(2) For the purposes of this subchapter, the terms "owner" and "mortgage" shall be deemed to include, respectively, the lessee of, and other security interest in, any leasehold interest which the Secretary determines has an unexpired term (A) in the case of a loan, for a period sufficiently beyond the repayment period of the loan to provide adequate security

and a reasonable probability of accomplishing the objectives for which the loan is made, and (B) in the case of a grant for a period sufficient to accomplish the objectives for which the grant is made.

* * * * *

(c) Conditions of eligibility.

In order to be eligible for the assistance authorized by subsection (a) of this section, the applicant must show (1) that he is the owner of a farm which is without a decent, safe, and sanitary dwelling for himself and his family and necessary resident farm labor, or for the family of the operating tenant, lessee, or sharecropper, or without other farm buildings adequate for the type of farming in which he engages or desires to engage, or that he is the owner of other real estate in a rural area or a rural resident without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations, or that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use, or that he is the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in clause (4) of subsection (a) of this section; (2) that he is without sufficient resources to provide the necessary housing and buildings on his own account; and (3) that he is unable to secure the credit necessary for such housing and buildings from other sources upon terms and conditions which he could reasonably be expected to fulfill. If an applicant is a State or local public agency—

(A) the provisions of clause (3) shall not apply to its application; and

(B) the applicant shall be eligible to participate in any program under this subchapter if the persons or families to be served by the applicant with the assistance being sought would be eligible to participate in such program.

(d) Additional definitions.

As used in this subchapter (except in sections 1473 and 1474(b) of this title) the terms "farm", "farm dwelling", and "farm housing" shall include dwellings or other essential buildings of eligible applicants.

(e) Escrow account for taxes, insurance, and other expenses.

The Secretary may establish procedures whereby borrowers under this subchapter may make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary may deem appropriate. Such payments shall be held in escrow by the Secretary and paid out by him at the appropriate time or times for the purposes for which such payments are made. The Secretary shall notify a borrower in writing when his loan payments are delinquent. (As amended Aug. 22, 1974, Pub. L. 93–383, title V, §§ 501, 502, 503, 505(a), 520, 88 Stat. 692, 693, 699.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–383, § 501, added references to the territories and possessions of the United States and the Trust Territory of the Pacific Islands.

Subsec. (a)(4)(B). Pub. L. 93–383, § 502(1) added provisions relating to combining of indebtedness with a loan for improvement, rehabilitation, or repairs.

Subsec. (a)(4)(C). Pub. L. 93–383, § 502(2), substituted provisions relating to incursion of indebtedness by the applicant at least five years prior to his applying under this clause for provisions relating to indebtedness not held or insured by the United States or any agency.

Subsec. (a)(4)(D). Pub. L. 93–383, § 502(2), struck out subsec. (a)(4)(D) which related to indebtedness incurred prior to enactment of clause.

Subsec. (b)(2). Pub. L. 93–383, § 503, substituted "this subchapter" for "sections 1472 and 1474 of this title".

Subsec. (c). Pub. L. 93–383, § 520, added provisions relating to applications of a State or local public agency.

Subsec. (e). Pub. L. 93–383, § 505(a), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1476, 1477, 1478 of this title; title 7 section 1933; title 12 sections 84, 1717; title 38 section 1811.

§ 1472. Loans for housing and buildings on adequate farms.

(a) Terms of loan.

If the Secretary determines that an applicant is eligible for assistance as provided in section 1471 of this title and that the applicant has the ability to repay in full the sum to be loaned, with interest, giving due consideration to the income and earning capacity of the applicant and his family from the farm and other sources, and the maintenance of a reasonable standard of living for the owner and the occupants of said farm, a loan may be made by the Secretary to said applicant for a period of not to exceed thirty-three years from the making of the loan with interest, in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title, at a rate not to exceed 5 per centum per annum on the unpaid balance of principal, and, in the case of applicants described in clause (3) of section 1471(a) of this title and applicants under sections 1473 and 1474 of this title, at a rate not to exceed 4 per centum per annum on such unpaid balance. Loans made or insured under this subchapter shall be conditioned on the borrower paying such fees and other charges as the Secretary may require and on the borrower prepaying to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 1471(e) of this title. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

* * * * *

(As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 505(b), 88 Stat. 693.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 added provisions relating to the borrower prepaying to the Secretary as escrow agent taxes, insurance, and other expenses required by the Secretary in accordance with section 1471(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1473, 1474, 1477, 1480, 1484, 1485, 1487, 1490a, 1490f of this title; title 7 sections 1933, 1969; title 12 sections 84, 1717; title 38 section 1811.

§ 1474. Loans and grants for repairs or improvements of rural dwellings; purposes of repairs or improvements; maximum amount; terms; repayment.

(a) In the event the Secretary determines that an eligible applicant cannot qualify for a loan under the

provisions of sections 1472 and 1473 of this title and that repairs or improvements should be made to a rural dwelling occupied by him in order to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community, and that repairs should be made to farm buildings in order to remove hazards and make such buildings safe, the Secretary may make a grant or a combined loan and grant to the applicant to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural supports, or making similar repairs, additions, or improvements, including all preliminary and installation costs in obtaining central water and sewer service. No assistance shall be extended to any one individual under this subsection in the form of a loan, grant, or combined loan and grant in excess of $5,000. Any portion of the sums advanced to the borrower treated as a loan shall be secured and be repayable within twenty years in accordance with the principles and conditions set forth in this subchapter, except that a loan for less than $2,500 need be evidenced only by a promissory note. Sums made available by grant may be made subject to the conditions set forth in this subchapter for the protection of the Government with respect to contributions made on loans made by the Secretary.

* * * * *

(As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 504, 88 Stat. 693.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 substituted provisions relating to repairs or improvements of a rural dwelling, scope of such repairs or improvements, limitation of $5,000 as maximum amount of grant or loan, and requirement of a promissory note for loan less than $2,500, for provisions relating to repairs or improvements of a farm dwelling, scope of such repairs or improvements, and limitations of $2,500, or $3,500 in cases involving water or plumbing facilities, as maximum amount of grant or loan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1472, 1477, 1480, 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1476. Buildings and repairs.

(a) Construction in accordance with plans and specifications; supervision and inspection; technical services and research.

In connection with financial assistance authorized in this subchapter, the Secretary shall require that all new buildings and repairs financed under this subchapter shall be substantially constructed and in accordance with such building plans and specifications as may be required by the Secretary. Buildings and repairs constructed with funds advanced pursuant to this subchapter shall be supervised and inspected as required by the Secretary. In addition to the financial assistance authorized in this subchapter, the Secretary is authorized to furnish, through such agencies as he may determine, to any person, including a person eligible for financial assistance under this subchapter, without charge or at such charges as the Secretary may determine, technical services such as building plans, specifications, construction supervision and inspection, and advice and information regarding farm dwellings and other buildings.

* * * * *

(d) Grants for research and study programs.

The Secretary may carry out the research and study programs authorized by subsections (b) and (c) of this section through grants made by him, on such terms, conditions, and standards as he may prescribe, to land-grant colleges established pursuant to the Act of July 2, 1862 (sections 301–308 of Title 7), or (upon a finding by the Secretary that the research and study involved cannot feasibly be performed through the personnel and facilities of the Department of Agriculture or by land-grant colleges) to such other private or public organizations as he may select.

(e) Preparation and submission of estimates of housing needs.

The Secretary of Agriculture shall prepare and submit to the President and to the Congress estimates of national rural housing needs and reports with respect to the progress being made toward meeting such needs and correlate and recommend proposals for such executive action or legislation necessary or desirable for the furtherance of the national housing objective and policy established by this Act with respect to rural housing, together with such other reports or information as may be required of the Secretary by the President or the Congress. (As amended Aug. 22, 1974, Pub. L. 93–383, title V, §§ 506, 519(a), 88 Stat. 694, 699.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383, § 519(a), substituted "as required by the Secretary" for "as may be required by the Secretary, by competent employees of the Secretary".

Subsec. (d). Pub. L. 93–383, § 506(a), substituted provisions authorizing grants to such other private or public organizations as selected by the Secretary upon finding that required research and study could not be performed by personnel and facilities of Department of Agriculture or land-grant colleges, for provisions authorizing grants to such other agencies as selected by the Secretary.

Subsec. (e). Pub. L. 93–383, § 506(b), substituted "rural housing" for "farm housing" wherever appearing therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1477. Preferences for veterans and families of deceased servicemen.

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of Title 38), and who was discharged or released therefrom on conditions other than dishonorable. "Deceased servicemen" shall mean persons who served in the military forces of the United States during

any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101 (29) of Title 38), and who died in service before the termination of such war or such period. (As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 507, 88 Stat. 694.)

AMENDMENTS

1974—Pub. L. 93–383 added references to the period beginning after Jan. 31, 1955 and ending on Aug. 4, 1964, or during the Vietnam era wherever appearing therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 84, 1717; title 38 section 1811.

§ 1478. Local committees to assist Secretary.

* * * * *

(b) The committees utilized or appointed pursuant to this section may examine applications of persons desiring to obtain the benefits of section 1471(a) (1) and (2) of this title as they relate to the successful operation of a farm, and may submit recommendations to the Secretary with respect to each applicant as to whether the applicant is eligible to receive such benefits, whether by reason of his character, ability, and experience he is likely successfully to carry out undertakings required of him under a loan under such section, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the making of the loan requested will carry out the purposes of this subchapter. The committees may also certify to the Secretary with respect to the amount of any loan. (As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 508, 88 Stat. 694.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 substituted provisions relating to examination of applications under section 1471(a) (1) and (2) of this title, and certification to the Secretary with respect to amount of any loan, for provisions relating to examination of applications under provisions of this subchapter, certification to the Secretary with respect to the amount of the loan or grant, and requiring performance of such other duties as the Secretary requests.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1483. Appropriations.

There is authorized to be appropriated to the Secretary (a) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (i) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title, and (ii) the interests due on a similar sum represented by notes or other obligations issued by the Secretary; (b) not to exceed $80,000,000 for loans and grants pursuant to section 1474 of this title during the period beginning July 1, 1956, and ending June 30, 1977; (c) not to exceed $80,000,000 for financial assistance pursuant to section 1486 of this title for the period ending June 30, 1977; (d) not to exceed $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title during the period beginning July 1, 1961, and ending June 30, 1974, and not to exceed $1,000,000 per year for such programs during the period beginning October 1, 1974, and ending June 30, 1977; (e) such further sums as may be necessary to enable the Secretary to carry out the provisions of this subchapter; and (f) such sums as may be required by the Secretary to administer the provisions of sections 1715z and 1715z–1 of Title 12. (As amended Oct. 2, 1973, Pub. L. 93–117, § 13(a), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93–383, title V, § 509(a), 88 Stat. 694.)

AMENDMENTS

1974—Pub. L. 93–383 in cls. (b) and (c) increased amount from $50,000,000 to $80,000,000 and substituted "June 30, 1977" for "October 1, 1974", and in cl. (d) substituted "June 30, 1974" for "October 1, 1974" and added provisions authorizing not to exceed $1,000,000 per year during the period beginning October 1, 1974, and ending June 30, 1977.

1973—Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973" wherever appearing.

§ 1484. Insurance of loans for housing and related facilities for domestic farm labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1487, 1490a of this title; title 12 sections 84, 1717.

§ 1485. Housing and related facilities for elderly persons and families or other persons and families of low income.

* * * * *

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund expiration date.

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, or partnership to provide rental or cooperative housing and related facilities for elderly persons and elderly families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development costs or the value of the security, whichever is less;

* * * * *

(5) no loan shall be insured under this subsection after June 30, 1977.

(d) Definitions.

As used in this section—

* * * * *

(4) the term "development cost" means the costs of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, and initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer

cooperatives who provide housing and related facilities for low or moderate income families.

* * * * *

(As amended Oct. 2, 1973, Pub. L. 93–117, § 13(b), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93–383, title V, §§ 509(b), 510, 88 Stat. 695.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93–383, § 510(a), struck out "$750,000 or" following "exceed" and substituted "less" for "least".

Subsec. (b)(5). Pub. L. 93–383, § 509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (d)(4). Pub. L. 93–383, 510(b), added provisions including initial operating expenses up to 2 per centum of enumerated costs and requiring payments to be made to consultants rendering services to nonprofit corporations or consumer cooperatives providing housing and related facilities to low or moderate income families.

1973—Subsec. (b(5). Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1486, 1487, 1488, 1490a, 1490f of this title; title 12 sections 84, 1717; title 40 App. section 207.

§ 1486. Financial assistance to provide low-rent housing for domestic farm labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title.

§ 1487. Rural Housing Insurance Fund.

(a) Authority to make and insure loans for housing and buildings on adequate farms; restrictions.

The Secretary may insure loans meeting the requirements of section 1472 of this title, and may make loans in accordance with the requirements of such section to be sold and insured; except that such loans shall—

(1) if the borrowers are persons of low or moderate income (as defined by the Secretary), (A) not exceed amounts necessary to provide adequate housing, modest in size, design, and cost (as determined by the Secretary), and (B) bear interest at a rate not to exceed 5 per centum per annum; but no loan under this paragraph shall be insured or made after June 30, 1977, except pursuant to a commitment entered into before that date; and

* * * * *

(b) Authority to make and insure loans for housing and related facilities for domestic farm labor and elderly persons; transfer of notes, contracts, and mortgages from Agricultural Credit Insurance Fund; compensation.

The Secretary may insure loans in accordance with the requirements of section 1484 of this title (exclusive of subsections (a)(3), (a)(5), and (b) thereof), 1485 of this title (exclusive of subsections (a) and (b)(4) thereof), 1490d, and 1490f of this title, and may make loans meeting such requirements to be sold and insured. Upon the expiration of ninety days after the original capitalization of the Rural Housing Insurance Fund, created by subsection (e) of this section, no new loans shall be made or insured under section 1484 or 1485(b) of this title, except in conformity with this section. The notes held in the Agricultural Credit Insurance Fund (section 1929 of Title 7) which evidence loans made or insured by the Secretary under section 1484 or 1485(b) of this title, the rights and liabilities of that Fund under insurance contracts relating to such loans held by insured investors, the mortgages securing the obligations of the borrowers under such loans held in the Fund or by insured investors, and all rights to subsequent collections on and proceeds of such notes, contracts, and mortgages, are hereby transferred to the Rural Housing Insurance Fund and for the purposes of this subchapter and any other Act shall be subject to the provisions of this section as if created pursuant thereto. The Rural Housing Insurance Fund shall compensate the Agricultural Credit Insurance Fund for the aggregate unpaid principal balance plus accrued interest of the notes so transferred.

* * * * *

(d) Authority to insure payment of interest and principal; liens; assignability of notes evidencing loans.

The Secretary may, in conformity with subsections (a), (b), and (m) of this section, insure the payment of principal and interest on loans made by lenders other than the United States, and on loans made from or otherwise acquired by the Rural Housing Insurance Fund which are sold by the Secretary. Any contract of insurance executed by the Secretary hereunder shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or material misrepresentation of which the holder has actual knowledge. In connection with loans insured under this section, the Secretary may take liens running to the United States notwithstanding the fact that the notes evidencing such loans may be held by lenders other than the United States. Notes evidencing such loans shall be freely assignable, but the Secretary shall not be bound by any such assignment until notice thereof is given to and acknowledged by him.

* * * * *

(j) Additional uses of Fund moneys.

The Secretary may also utilize the Fund—

(1) to pay amounts to which the holder of the note is entitled in accordance with an insurance or sale agreement under this section accruing between the date of any payment by the borrower to the Secretary and the date of transmittal of any such payments to the holder of the note; and in the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay the holder of any note insured under this section any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, or pursuant to a purchase agreement, the entire balance outstanding on the note;

(3) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, and other services customary in the industry, construction inspections, commercial appraisals, servicing of loans, and other related program services and expenses, and other expenses and advances to protect the

security for loans which are insured under this section or held in the Fund, and to acquire such security property at foreclosure sale or otherwise; and

(4) to make assistance payments authorized by section 1490a(a)(2) of this title.

* * * * *

(As amended Oct. 2, 1973, Pub. L. 93–117, § 13(c), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93–383, title V, §§ 505(c), 509(b), 514(c), 516(b), 517, 519(b), 88 Stat. 694–696, 698, 699.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–383, § 509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (b). Pub. L. 93–383, §§ 516(b), 517, added reference to section 1490f of this title and provisions relating to transfer of notes from and compensation for the Agricultural Credit Insurance Fund.

Subsec. (d). Pub. L. 93–383, § 505(c)(1), struck out "as it becomes due" following "principal and interest".

Subsec. (j). Pub. L. 93–383, §§ 505(c)(2), (3), 514(c), 519(b), in cl. (1) substituted "any payment" for "any prepayment" and "such payments" for "such prepayments" and added provision relating to next agreed annual or semiannual remittance date, in cl. (3) added provisions authorizing other services customary in the industry, etc., and added cl. (4).

1973—Subsec. (a)(1). Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title; title 7 section 1933.

§ 1490. Definitions.

As used in this subchapter, the terms "rural" and "rural area" mean any open country, or any place, town, village, or city which is not part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit, as determined by the Secretary and the Secretary of Housing and Urban Development. (As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 511, 88 Stat. 695.)

AMENDMENTS

1974—Pub. L. 93–383 added cl. (3).

§ 1490a. Loans to provide occupant-owned, rental, and cooperative housing for low and moderate income persons and families.

(a) Interest rates; determination of eligibility; multifamily housing projects; assistance payments to owners; amount limitations; recordkeeping and payment requirements for owners.

(1) Notwithstanding the provisions of sections 1472, 1487(a) and 1485 of this title, loans to persons of low or moderate income under section 1472 or 1487(a)(1) of this title, loans under section 1485 of this title to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly persons and elderly families and loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined annually by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum: *Provided,* That such a loan may be made only when the Secretary determines that the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 1715z or 1715z–1 of Title 12: *Provided further,* That interest on loans under section 1472 or 1478(a) of this title to victims of natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section.

(2)(A) The Secretary may make and insure loans under this section and sections 1484, 1485 and 1487 of this title to provide rental or cooperative housing and related facilities for persons and families of low income in multifamily housing projects, and may make, and contract to make, assistance payments to the owners of such rental housing in order to make available to low-income occupants of such housing rentals at rates commensurate to income and not exceeding 25 per centum of income. Such assistance payments shall be made on a unit basis and shall not be made for more than 20 per centum of the units in any one project, except that (i) when the project is financed by a loan under section 1485 of this title for elderly housing or by a loan under section 1484 of this title and a grant under section 1486 of this title, such assistance may be made for up to 100 per centum of the units, and (ii) when the Secretary determines such action is necessary or feasible, he may make such payments with respect to more than 20 per centum of the units.

(B) The owner of any project assisted under this paragraph shall be required to provide at least annually a budget of operating expenses and record of tenants' income which shall be used to determine the amount of assistance for each project.

(C) The project owner shall accumulate, safeguard, and periodically pay to the Secretary any rental charges collected in excess of basic rental charges as established by the Secretary in conformity with subparagraph (A). These funds may be credited to the appropriation and used by the Secretary for making such assistance payments through the end of the next fiscal year.

(b) Location in rural areas; inclusion of qualified nonrural residents who will become rural residents.

Housing and related facilities provided with loans described in subsection (a) of this section shall be located in rural areas; and applicants eligible for such loans under section 1472, 1487(a)(1), or 1490f(a) of this title, or for occupancy of housing provided with such loans under section 1485 or 1490f(c) of this title, shall include otherwise qualified nonrural residents who will become rural residents.

(c) Reimbursement of Rural Housing Insurance Fund.

There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) of this section exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsection (a)(2) of this section. The Secretary may from time to time issue notes to the Secretary of the Treasury under section 1487(h) and of this title to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation.

* * * * *

(As amended Aug. 22, 1974, Pub. L. 93-383, title V, §§ 514 (a), (b), 516(c), 88 Stat. 696, 698.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-383, §§ 514(a), 516(c)(1) redesignated existing subsec. (a) as (a)(1) and, as so redesignated, substituted "loans under section 1485 of this title" for "and loans under section 1485 of this title" and added provisions relating to loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income.

Subsec. (a)(2). Pub. L. 93-383, § 514(a), added subsec. (a)(2).

Subsec. (b). Pub. L. 93-383, § 516(c)(2) added references to sections 1490f(a) and 1490f(c) of this title.

Subsec. (c). Pub. L. 93-383, §§ 514(b), 516(c)(3), reorganized structure of subsec. by designating existing provisions as cl. (1) and, as so designated, substituted reference to subsec. (a)(1) of this section for reference to subsec. (a) of this section, added cl. (2), and made former second clause into second sentence, and, as so amended, added reference to section 1490f of this title and struck out "excess" following "unreimbursed".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1487, 1490c of this title.

§ 1490b. Housing for rural trainees.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 1490c. Mutual and self-help housing.

* * * * *

(b) Contract authority; establishment of Self-Help Housing Land Development Fund; authorization to make loans; conditions of loan.

In order to carry out the purposes of this section, the Secretary of Agriculture (in this section referred to as the "Secretary") is authorized—

(1)(A) * * *

* * * * *

(B) to establish the Self-Help Housing Land Development Fund, referred to herein as the Self-Help Fund, to be used by the Secretary as a revolving fund for making loans, on such terms and conditions and in such amounts as he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, and cooperatives eligible for assistance under section 1715z or 1715z-1 of Title 12 or section 1490a of this title. Such a loan, with interest at a rate not to exceed 3 percent per annum, shall be repaid within a period not to exceed two years from the making of the loan, or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes hereof: *Provided*, That the Secretary may advance funds under this paragraph to organizations receiving assistance under clause (A) to enable them to establish revolving accounts for the purchase of land options and any such advances may bear interest at a rate determined by the Secretary and shall be repaid to the Secretary at the expiration of the period for which the grant to the organization involved was made; and

* * * * *

(f) Authorization of appropriations; termination date.

There are hereby authorized to be appropriated for each fiscal year commencing after June 30, 1968, and ending prior to July 1, 1977, such sums, not in excess of $10,000,000 for any such fiscal, as may be necessary to carry out the provisions of this section. No grant or loan may be made or contract entered into under the authority of this section after June 30, 1977, except pursuant to a commitment or other obligation entered into pursuant to this section before that date.

* * * * *

(h) Rules and regulations.

The Secretary shall issue rules and regulations for the orderly processing and review of applications under this section and rules and regulations protecting the rights of grantees under this section in the event he determines to end grant assistance prior to the termination date of any grant agreement. (As amended Oct. 2, 1973, Pub. L. 93-117, § 13(d), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93-383, title V, § 512, 88 Stat. 695.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93-383, § 512(a), added proviso relating to advance of funds by Secretary at end of cl. (B).

Subsec. (f). Pub. L. 93-383, § 512(b), substituted "1977" for "1974" wherever appearing therein and "$10,000,000" for "$5,000,000."

Subsec. (h). Pub. L. 93-383, § 512(c), added subsec. (h).

1973—Subsec. (f). Pub. L. 93-117 substituted "1974" for "1973" wherever appearing.

§ 1490d. Loans to nonprofit organizations to provide building sites for eligible families, nonprofit organizations, public agencies, and cooperatives; interest rates; factors determinative in making loan.

(a) The Secretary may make loans, on such terms and conditions and in such amounts he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of this subchapter or under any other law which provides financial assistance for housing low- and moderate-income families. Such a loan shall bear interest at

a rate prescribed by the Secretary taking into consideration a rate determined annually by the Secretary of the Treasury as the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, and shall be repaid within a period not to exceed two years from the making of the loan or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes of this section.

* * * * *

(As amended Aug. 22, 1974, Pub. L. 93–383, title V, § 513, 88 Stat. 696.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 provided for applicability to public agencies and substituted "any section of this subchapter or under any other law which provides financial assistance for housing low- and moderate-income families" for "section 1715z or 1715z–1 of Title 12 or section 1490a of this title."

§ 1490e. Programs of technical and supervisory assistance for low-income individuals and families in rural areas.

(a) Grants or contracts with public or private nonprofit corporations, etc., for assistance; preferential treatment of applications sponsored by governmental entity or public body.

The Secretary may make grants to or enter into contracts with public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him, to pay part or all of the cost of developing, conducting, administering or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and families in benefiting from Federal, State, and local housing programs in rural areas. In processing applications for such grants or contracts made by private nonprofit corporations, agencies, institutions, organizations, and other associations, the Secretary shall give preference to those which are sponsored (including assistance to the applicant in processing the application, implementing the technical assistance program, and carrying out the obligations of the grant or contract) by a State, county, municipality, or other governmental entity or public body.

(b) Loans to public or private nonprofit corporations, etc., for necessary planning and financing expenses; interest rates; factors determinative of amount; terms and conditions of repayment cancellation.

The Secretary is authorized to make loans to public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him for the necessary expenses, prior to construction, of planning, and obtaining financing for, the rehabilitation or construction of housing for low-income individuals or families under any Federal, State, or local housing program which is or could be used in rural areas. Such loans shall be made without interest and shall be for the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including but not limited to preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the housing or sooner, and may cancel any part or all of such loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

(c) Authorization of appropriations; availability of amounts.

There are authorized to be appropriated for the fiscal years ending June 30, 1975, and June 30, 1976, not to exceed $5,000,000 for the purposes of subsection (a) of this section and not to exceed $5,000,000 for the purposes of subsection (b) of this section. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this subsection but not appropriated may be appropriated for any succeeding fiscal year.

(d) Deposit of appropriated funds into low-income sponsor fund; availability; administration of fund as revolving fund; deposit of repayments.

All funds appropriated for the purpose of subsection (b) of this section shall be deposited in a fund which shall be known as the low-income sponsor fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of that subsection. Sums received in repayment of loans made under subsection (b) of this section shall be deposited in such fund. (July 15, 1949, ch. 338, title V, § 525, as added Aug. 22, 1974, Pub. L. 93–383, title V, § 515, 88 Stat. 697.)

§ 1490f. Loans and insurance of loans for condominium housing in rural areas.

(a) Individual loans and insurance of loans to low or moderate income persons or families for purchase of units; terms and conditions.

The Secretary is authorized, in his discretion and upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 1472 of this title) as he may prescribe, to make loans to persons and families of low or moderate income, and to insure and make commitments to insure loans made to persons and families of low or moderate income, to assist them in purchasing dwelling units in condominiums located in rural areas.

(b) Scope of individual loans and insurance of loans; condominium requirements.

Any loan made or insured under subsection (a) of this section shall cover a one-family dwelling unit in a condominium, and shall be subject to such provisions as the Secretary determines to be necessary for the maintenance of the common areas and facilities of the condominium project and to such additional requirements as the Secretary deems appropriate for the protection of the consumer.

(c) Blanket loans and insurance of loans; terms and conditions; certification by borrower of future ownership of multifamily project; maximum amount of principal obligation.

In addition to individual loans made or insured under subsection (a) of this section the Secretary is authorized, in his discretion and upon such terms

and conditions (substantially identical insofar as may be feasible with those specified in section 1485 of this title) as he may prescribe, to make or insure blanket loans to a borrower who shall certify to the Secretary, as a condition of obtaining such loan or insurance, that upon completion of the multifamily project the ownership of the project will be committed to a plan of family unit ownership under which (1) each family unit will be eligible for a loan or insurance under subsection (a) of this section, and (2) the individual dwelling units in the project will be sold only on a condominium basis and only to purchasers eligible for a loan or insurance under subsection (a) of this section. The principal obligation of any blanket loan made or insured under this subsection shall in no case exceed the sum of the individual amounts of the loans which could be made or insured with respect to the individual dwelling units in the project under subsection (a) of this section.

(d) Definitions.

As used in this section, the term "condominium" means a multi-unit housing project which is subject to a plan of family unit ownership acceptable to the Secretary under which each dwelling unit is individually owned and each such owner holds an undivided interest in the common areas and facilities which serve the project. (July 15, 1949, ch. 338, title V, § 526, as added Aug. 22, 1974, Pub. L. 93–383, title V, § 516(a), 88 Stat. 698.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1487, 1490a of this title.

§ 1490g. Mobile homes and mobile home sites; inclusion within application of term "housing" for provisions of subchapter; financing requirements; terms and conditions of loans.

(a) As used in this subchapter, the term "housing" shall, notwithstanding any other provision of this subchapter and to the extent deemed practicable by the Secretary, include mobile homes and mobile home sites.

(b) With respect to mobile homes and mobile home sites financed under this subchapter, the Secretary shall—

(1) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which it is to be located, and

(2) obtain assurances from the borrower that the mobile home will be placed on a site which complies with standards prescribed by the Secretary and with applicable local requirements.

Loans under this subchapter for the purchase of mobile homes and sites shall be made on the same terms and conditions as are applicable under section 1703 of Title 12 to obligations financing the purchase of mobile homes and lots on which to place such homes. (July 15, 1949, ch. 338, title V, § 527, as added Aug. 22, 1974, Pub. L. 93–383, title V, § 518, 88 Stat. 699.)

Chapter 8B.—PUBLIC WORKS OR FACILITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5153, 5306, 5316 of this title.

Chapter 8C.—OPEN-SPACE LAND

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4519, 5303, 5304, 5306, 5316 of this title.

§ 1500d. Authorization of appropriations.

There are authorized to be appropriated for purposes of making grants under this chapter not to exceed $660,000,000 prior to September 30, 1972, plus not to exceed $63,000,000 for the fiscal year beginning July 1, 1973. Any amounts appropriated under this section shall remain available until expended. (As amended Pub. L. 92–213, § 8(b), Dec. 22, 1971, 85 Stat. 776; Pub. L. 92–335, § 5, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, § 7, Oct. 2, 1973, 87 Stat. 422.)

AMENDMENTS

1973—Pub. L. 93–117 authorized appropriation of $63,000,000 for fiscal year beginning July 1, 1973.

1972—Pub. L. 92–335 substituted "September 30, 1972" for "July 1, 1972".

1971—Pub. L. 92–213 substituted "$660,000,000" for "$560,000,000".

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3914 of this title.

Chapter 9.—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER XI.—HOUSING FOR MILITARY PERSONNEL

Sec.
1594j–1. Inadequate quarters [New].

SUBCHAPTER I.—PROJECTS GENERALLY

§ 1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300k–1 of this title.

SUBCHAPTER VII.—DISPOSAL OF WAR AND VETERANS' HOUSING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553, 1586 of this title.

§ 1586. Sale of specific housing projects.

* * * * *

(b) Projects as "low-rent housing".

Upon the conveyance by the Administrator of any such project pursuant to the provisions of this section, such project shall constitute and be deemed to be "low-rent housing" as that term is used and defined in the United States Housing Act of 1937 (and to be a low-rent housing project assisted pursuant to that Act, within the meaning of section 1404a (b) of this title). Any instrument of conveyance by the Administrator stating that it is executed under subchapters II—VII of this chapter shall be conclusive evidence of compliance therewith insofar as any title or other interest in the property is concerned.

(c) Conditions and requirements of agreements.

The agreement between the public housing agency and the Administration required by subsection (a) of this section shall contain the following conditions and requirements, and may contain such further conditions, requirements, and provisions as the Administration determines—

(1) during a period of forty years following the conveyance the project shall be administered as low-rent housing in accordance with subsections (1) and (2) of section 1402 of this title: *Provided,* That if at any time during such period the public housing agency and the Administration agree that the project, or any part thereof, is no longer suitable for use as low-rent housing, the project, or part thereof, shall with the approval of the Administration be sold by the public housing agency after which the agreement shall be deemed to have terminated with respect to such project or part thereof except that the proceeds from such sale, after payment of the reasonable expense thereof, shall be paid to the Administration, or, with the Secretary's approval, used to finance the repair of rehabilition of a project or part thereof conveyed to the public housing agency under this section;

* * * * *

(As amended Aug. 22, 1974, Pub. L. 93–383, title II, § 207, 88 Stat. 669.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383, § 207(a), struck out provisions relating to payment of capital grants or annual contributions to low-rent housing projects.

Subsec. (c)(1). Pub. L. 93–383, § 207(b), added provision relating to financing the repair or rehabilitation of a project or part of project conveyed to the public housing agency under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1585, 1587 of this title.

SUBCHAPTER IX.—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

§ 1592m. Transfer of functions and funds in certain cases.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan. No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

OFFICE OF EMERGENCY PREPAREDNESS

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. 10296, Oct. 2, 1951, 16 F.R. 10103, as amended [set out as a note under this section], transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

SUBCHAPTER XI.—HOUSING FOR MILITARY PERSONNEL

§ 1594i. Authorization of number of family housing units.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 138.

§ 1594j. Repealed. Pub. L. 92-545, title V. § 508(c), Oct. 25, 1972, 86 Stat. 1150.

Section, Pub. L. 85–241, title IV, § 407, Aug. 30, 1957, 71 Stat. 556; Pub. L. 85–685, title V, § 516, Aug. 20, 1958, 72 Stat. 664; Pub. L. 86–372, title VII, § 702(c), Sept. 23, 1959, 73 Stat. 683; Pub. L. 86–500, title V, § 508, June 8, 1960, 74 Stat. 186; Pub. L. 87–57, title VI, § 610, June 27, 1961, 75 Stat. 111; Pub. L. 88–174, title V, § 506, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89–568, title V, § 502, Sept. 12, 1966; 80 Stat. 753; Pub. L. 90–110, title VI, § 608, Oct. 21, 1967, 81 Stat. 305, provided for the occupancy on a rental basis of inadequate quarters without the loss of the basic allowance for quarters. See section 1594j–1 of this title.

§ 1594j–1. Inadequate quarters.

(a) Notwithstanding the provisions of any other law, members of the uniformed services (as defined in section 101(3) of Title 37, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of a military department notwithstanding that such quarters may have been constructed or converted for assignment as public quarters, subject to a charge against their basic allowance for quarters in the amount of the fair rental value of the housing facility: *Provided,* That notwithstanding the fair rental value of such family housing facility, no charge for occupancy thereof shall be made against the basic allowance for quarters of the occupant in excess of 75 per centum of such allowance, except that in no event shall the total charge to the occupants' basic allowance for quarters for such housing at any installation be less than the cost of maintenance and operation thereof. The net difference between the basic allowance for quarters and the occupancy charge shall be paid to the occupant from otherwise available appropriations.

(b) The Secretaries of the Military Departments are each authorized, subject to regulations approved by the Secretary of Defense—

(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and,

(2) to lease inadequate housing to personnel of any of the mentioned services for occupancy by them and their dependents.

In no event shall more than a total of 20,000 housing units be determined inadequate as public quarters under authority of this section. (Pub. L. 92–545, title V, § 508(a), (b), Oct. 25, 1972, 86 Stat. 1149.)

CODIFICATION

Section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

§ 1594k. Foreign countries; guarantee of rental return to builders or other sponsors; limitation on amount; period; unit limitation.

For the purpose of providing military family housing in foreign countries, the Secretary of Defense is authorized to enter into agreements guaranteeing the builders or other sponsors of such housing a rental return equivalent to a specified portion of the annual rental income which the builders or other sponsors would receive from the tenants if the housing were fully occupied: *Provided,* That the aggregate amount guaranteed under such agreements entered into during the fiscal years 1974 and 1975 shall not exceed such amount as may be applicable

to five thousand units: *Provided further,* That no such agreement shall guarantee the payment of more than 97 per centum of the anticipated rentals, nor shall any guarantee extend for a period of more than ten years, nor shall the average guaranteed rental on any project exceed $275 per unit per month, including the cost of maintenance and operation. (As amended Pub. L. 92–145, title V, § 507, Oct. 27, 1971, 85 Stat. 407; Pub. L. 92–545, title V, § 507, Oct. 25, 1972, 86 Stat. 1149; Pub. L. 93–166, title V, § 508, Nov. 29, 1973, 87 Stat. 676.)

AMENDMENTS

1973—Pub. L. 93–166 substituted "1974 and 1975" for "1973 and 1974" and increased guaranteed rental limitation from $225 to $275.

1972—Pub. L. 92–545 substituted "1973 and 1974" for "1972 and 1973" and increased guaranteed rental limitation from "$210" to "$225."

1971—Pub. L. 92–145 substituted "1972 and 1973" for "1971 and 1972" and increased guaranteed rental limitation from "$185" to "$210".

Chapter 12.—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH THE UNITED STATES OUTSIDE THE UNITED STATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 8146a; title 7 section 1933.

Chapter 13.—SCHOOL LUNCH PROGRAMS

Sec.

1762a. Commodity distribution program [New].
1764. Special food service program for needy children; continuing availability of unexpended funds [New; Repealed].
1765. Cash payment in lieu of donated foods; election, payment, disbursement and use [New].
1766. Child care food program [New].
(a) Authorization of appropriations.
(b) Formula for computation of payments; semiannual adjustments based on changes in series for food away from home of Consumer Price Index; base period for adjustments.
(c) Nutritional standards; discrimination and over identification prohibited.
(d) State disbursements to institutions.
(e) Donation of agricultural commodities; cash in lieu of commodities.
(f) Direct disbursement to institutions by Secretary; conditions.
(g) Nondiminution in expenditure of State and local funds by reason of federal funds.
(h) Administrative expenses of Secretary; authorization of appropriations.
(i) Accounts and records.
(j) Nonfood assistance; apportionment; apportionment of unused funds.
(k) Rules and regulations.
1767. Nutrition program staff study [New].
1768. Authorization of appropriations for the Trust Territory of the Pacific Islands [New].

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 31–1407 of the District of Columbia Code.

§ 1751. Congressional declaration of policy.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–105, Oct. 7, 1975, 89 Stat. 511, provided: "That this Act [enacting sections 1765, 1766, 1767, 1768, and 1787 of this title, amending sections 1752, 1755, 1756, 1758, 1759, 1759a, 1760, 1761, 1762a, 1772, 1773, 1774, 1784, and 1786 of this title, repealing section 1764 of this title, and enacting provisions set out as notes under sections 1758, 1760, 1761, and 1786 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Section 1 of Pub. L. 93–326, June 30, 1974, 88 Stat. 286, provided: "That this Act [enacting section 1762a of this title and amending sections 1752, 1755, 1758, 1763, 1774, and 1786 of this title] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1974'."

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93–150, Nov. 7, 1973, 87 Stat. 560, provided: "That this Act [which amended sections 1753, 1755, 1757, 1758(b), 1759, 1759a, 1763(a), (b), (e), 1772, 1773(b), (c), and 1786(a), (b), (e) of this title, and enacted provisions set out as a note under this section and as a note under section 240 of Title 20] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1973'."

COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS; REPORT TO CONGRESS

Section 10 of Pub. L. 93–150, Nov. 7, 1973, 87 Stat. 564, provided that: "The Secretary of Agriculture is authorized and directed to carry out a comprehensive study to determine if the benefits of programs carried out under the National School Lunch Act [this chapter] and Child Nutrition Act [chapter 13A of this title] are accruing to the maximum extent possible to all of the nation's school children, including a study to determine if those most in need are receiving free lunches, and to determine if significant regional cost differentials exist in Alaska and other States so as to require additional reimbursement. The Secretary shall report his findings, together with any recommendations he may have with respect to additional legislation, to the Congress no later than June 30, 1974. The Secretary shall consider any recommendations made by the Department of Health, Education, and Welfare, the General Accounting Office, the National Advisory Council on Child Nutrition, and interested professional organizations or individuals in the field of child care and nutrition. Alternatives to the present structure, including but not limited to the universal feeding program, shall be included in the study."

§ 1752. Appropriations.

For each fiscal year, there is authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this chapter, other than sections 1761, 1766 and 1768 of this title. Appropriations to carry out the provisions of this chapter and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this chapter and the Child Nutrition Act of 1966 shall remain available for the purposes of the Act for which appropriated until expended. (As amended June 30, 1974, Pub. L. 93–326, § 7, 88 Stat. 287; Oct. 7, 1975, Pub. L. 94–105, § 24, 89 Stat. 529.)

AMENDMENTS

1975—Pub. L. 94–105 substituted "sections 1761, 1766 and 1768" for "section 1761".

1974—Pub. L. 93–326 substituted "other than section 1761 of this title" for "other than sections 1759a and 1761 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1754 of this title.

§ 1753. Availability of appropriations; food assistance payments.

The sums appropriated for any fiscal year pursuant to the authorizations contained in section 1752 of this title, excluding the sum specified in section 1754 of this title, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this chapter. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this chapter under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this chapter: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. (As amended Sept. 26, 1972, Pub. L. 92–433, § 4(c), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, § 2(a), 87 Stat. 560.)

AMENDMENTS

1973—Pub. L. 93–150 increased the national average food assistance payments from 8 to 10 cents per lunch.

1972—Pub. L. 92–433 substituted new formula for food assistance payments to State educational agencies by taking into account the number of lunches served during the year, the children in the schools in such State participating in the school lunch program, and the national average payment per lunch set up by the Secretary, with certain limitations, for apportionment formula limiting the apportionable funds to 75 per cent of the available funds for such year, and taking into account the participation rate for the State, the need rate for the State, and providing for a method of apportionment, special provisions for disposal of excess or unused funds and for fiscal years beginning July 1, 1962, July 1, 1963, July 1, 1964 and fixing the funds for American Samoa at $25,000 for each year for the five fiscal years beginning July 1, 1962.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4(c) of Pub. L. 92–433 provided in part that amendment of this section is effective after the fiscal year ending June 30, 1973.

USE OF FUNDS APPROPRIATED UNDER SECTION 612c OF TITLE 7 FOR IMPLEMENTING THIS SECTION AND REIMBURSEMENT OF SUCH FUNDS

Section 4(a) of Pub. L. 92–433 provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)), as may be necessary, in addition to the funds available therefor, to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973. Funds expended under the foregoing provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 4 of the National School Lunch Act [this section] and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7], to be available for the purposes of said section 32."

ADDITIONAL FUNDS FOR APPORTIONMENT TO STATES AND FOR SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT OF SEPARATE FUND FROM SUPPLEMENTAL APPROPRIATION

Pub. L. 92–153, § 1, Nov. 5, 1971, 85 Stat. 419, provided: "That, notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as may be necessary, in addition to the funds now available therefor, to carry out the purposes of section 11 of the National School Lunch Act [section 1759a of this title] and provide a rate of reimbursement which will assure every needy child of free or reduced price lunches during the fiscal year ending June 30, 1972, and to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of 6 cents per meal within each State. In determining the amount of funds needed and the requirements of the various States therefor, the Secretary shall consult with the National Advisory Council on Child Nutrition and interested parties. Funds expended under the foregoing provisions of this resolution shall be reimbursed out of any supplemental appropriation hereafter enacted [on and after Nov. 5, 1971] for the purpose of carrying out section 4 [this section] and section 11 of the National School Lunch Act [section 1759a of this title], and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7], to be available for the purposes of said section 32 [section 612c of Title 7]."

APPORTIONMENT OF ADDITIONAL FUNDS TO STATES

Section 4(b) of Pub. L. 92–433 provided that: "Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

Pub. L. 92–153, § 2, Nov. 5, 1971, 85 Stat. 420, provided that: "Funds made available by this joint resolution [amending sections 1758 and 1759a(e) of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced price lunches and to meet the objective of this joint resolution [amending sections 1758 and 1759a(e) of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1754 to 1757, 1759a, 1766, 1773 of this title.

§ 1754. Nonfood assistance; amount; apportionment.

STATUTES AT LARGE

June 4, 1946, ch. 281, § 5, 60 Stat. 231, cited to credit, should read June 4, 1946, ch. 281, § 4, 60 Stat. 231.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1755, 1756, 1757, 1759a of this title.

§ 1755. Direct expenditures for agricultural commodities and other foods.

(a) Administrative expenses; nutritional education.

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 1772 of this title, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this chapter and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 1753 and 1754 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 1773, 1774, and 1776 of this title; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966, other than section 1772 of this title, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 1771 of this title,

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of section 713c of Title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of Title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Cash donations in lieu of commodity donations during fiscal year for school food service programs; apportionment among State educational agencies; disbursement for breakfasts and lunches.

As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 1431 of Title 7, and section 612c of Title 7. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of sections 1758(a) and 1773(e) of this title during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in any of the schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in such schools under the provisions of sections 1758 (a) and 1773(e) of this title during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this chapter and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Interim source of funds, pending supplemental appropriation of additional funds for carrying out subsection (b).

Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 612c of Title 7 to make any payments to States authorized under such subsection. Any section 612c of Title 7 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 612c of Title 7 to be available for the purpose of said section 612c of Title 7.

(d) State matching provisions inapplicable to subsection (b) or (c) funds.

Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 1756 of this title.

(e) Level of commodity assistance; emphasis on high protein foods.

For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that

amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program. (As amended Mar. 30, 1973, Pub. L. 93–13, § 2, 87 Stat. 10; Nov. 7, 1973, Pub. L. 93–150, § 5, 87 Stat. 562; June 30, 1974, Pub. L. 93–326, § 3, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94–105, §§ 4, 11, 89 Stat. 511, 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a), (b), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A (section 1771, et seq.) of this title.

Section 713c of Title 15, referred to in subsec. (a), which related to the continuance of the existence of Federal Surplus Commodities Corporation and the purchase and distribution of surplus agricultural commodities, expired by its own terms on June 30, 1945.

Title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220, referred to in subsec. (b), refer to the Code of Federal Regulations.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105, § 11(a), added provision prohibiting the issuance of specifications in the purchase of agricultural commodities and other foods unless such specifications result in significant advantages to the authorized food service programs.

Subsec. (b). Pub. L. 94–105, § 4, substituted references to all the schools of the States for references to only the nonprofit private schools of the States in the provisions covering the Secretary's direct administration of school food service programs.

Subsec. (e). Pub. L. 94–105, § 11(b), added provision mandating that not less than 75 per centum of the assistance under this subsection shall be in the form of donated foods for the school lunch program.

1974—Subsec. (e). Pub. L. 93–326 added subsec. (e).

1973—Subsec. (a). Pub. L. 93–13 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 93–150, in revising the text to make the provisions applicable each fiscal year rather than only for fiscal year ending June 30, 1973, substituted in: first sentence, "As of February 15 of each fiscal year" and "during that fiscal year" for "As of March 15, 1973" and "during the fiscal year ending June 30, 1973"; second sentence, "for that fiscal year", "March 15 of that fiscal year", and "as of February 15 of such fiscal year" for "for the fiscal year ending June 30, 1973", "April 15, 1973", and "as of March 15, 1973"; third sentence, "during the preceding fiscal year" for "during the fiscal year ending June 30, 1972,"; and proviso of third sentence, "during that fiscal year" for "during the fiscal year ending June 30, 1972,".

Pub. L. 93–13 added subsec. (b).

Subsec. (c). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (c).

Subsec. (d). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (d).

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 1 of Pub. L. 93–13 provided that: "The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act [amending this section] to provide an effective and immediate solution to this nutritional crisis."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1765, 1766 of this title; title 7 section 1424.

§ 1756. Payments to States; matching payments by States; makeup and disbursement of State revenue.

Funds apportioned to any State pursuant to sections 1753 or 1754 of this title during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school-lunch program authorized under this chapter. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by $1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this chapter. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal year thereafter, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 1759 of this title, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 1759 of this title, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10

per centum of the matching requirement for the preceding fiscal year. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 1753 and 1759a of this title and sections 1773 and 1774 of this title. The requirement in this section that each dollar of Federal assistance be matched by $3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 1753 of this title for free and reduced price lunches: *Provided*, That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified. (As amended Sept. 26, 1972, Pub. L. 92–433, § 10, 86 Stat. 731; Oct. 7, 1975, Pub. L. 94–105, § 5, 89 Stat. 511.)

AMENDMENTS

1975—Pub. L. 94–105 made the requirements of the section that each dollar of Federal assistance be matched by $3 from sources within the State inapplicable with respect to the payments made to participating schools under section 1753 of this title, with the proviso that such inapplicability not affect the level of State matching required by the sixth sentence of the section.

1972—Pub. L. 92–433 substituted "per centum of the matching requirement for the preceding fiscal year" for "per centum of the matching requirement" in four places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1759, 1759a of this title.

§ 1757. State disbursement to schools; purpose; food costs; limitation.

Funds paid to any State during any fiscal year pursuant to sections 1753 or 1754 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this chapter during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary. (As amended Sept. 26, 1972, Pub. L. 92–433, § 8, 86 Stat. 729; Nov. 7, 1973, Pub. L. 93–150, § 2(b), 87 Stat. 560.)

AMENDMENTS

1973—Pub. L. 93–150 provided that in any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.

1972—Pub. L. 92–433 substituted provision that disbursement to schools be made for the purpose of assisting them to finance the costs of agricultural commodities, for provision that such disbursement be made for the purpose of reimbursing them for such costs and added provision that lunch assistance disbursements to schools under this section and section 1759a of this title may be made in advance or by way of reimbursement according to procedure prescribed by the Secretary.

§ 1758. Program requirements.

(a) Nutritional standards; medical and special dietary needs of individual students; diminution of food waste.

Lunches served by schools participating in the school-lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students. The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools which participate in the school lunch program under this chapter shall not be required to accept offered foods which they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such a lunch.

(b) Eligibility criteria for free and reduced price lunches; income poverty guidelines; discrimination and overt identification prohibited; income guidelines for reduced price lunches; free or reduced price lunches for children of unemployed parent or guardian.

(1) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guideline currently in effect by the change in the Consumer

Price Index for the 12-month period ending in April of such fiscal year: *Provided,* That such revision for use from July 1976 through June 1977 shall be made by multiplying the income poverty guideline currently in effect by the change between the average 1974 Consumer Price Index and the Consumer Price Index for April 1976. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents. Such income guidelines for reduced-price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Any child who is a member of a household, if that household has an annual income which falls between (A) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (B) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided,* That such local school authorities may for cause seek verification of the data in such application. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(2) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(c) Donation and maximum utilization of agricultural commodities; applicability to nonprofit private schools.

School-lunch programs under this chapter shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary. Commodities purchased under the authority of section 612c of Title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this chapter as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of Title 7, under section 1431 of Title 7 and under section 1446a–1 of Title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title) which participate in the school lunch program under this chapter until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 1759 of this title the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements. (As amended Nov. 5, 1971, Pub. L. 92–153, § 5, 85 Stat. 420; Sept. 26, 1972, Pub. L. 92–433, § 5, 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, § 9, 87 Stat. 564; June 30, 1974, Pub. L. 93–326, § 4, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94–105, § 6, 89 Stat. 512.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105, § 6(a), directed the Secretary to establish administrative procedures designed to diminish food waste in school lunch programs and made provision for senior high school students to refuse food which they do not intend to consume without affecting lunch charges or payments to schools for lunches served.

Subsec. (b)(1). Pub. L. 94–105, § 6(b), designated existing provisions as subsec. (b)(1), and, as so designated, struck out "if a school elects to serve reduced-price lunches" following "reduced price not to exceed 20 cents", added provision for a reduced price lunch for any child eligible under reduced price lunch income guidelines, established the income guidelines for reduced price lunches, beginning with fiscal year ending June 30, 1976, at 95 per centum above the applicable family size income levels in the income poverty guidelines, and provided for a reduced price lunch not to exceed 20 cents to any child belonging to a household whose income falls between guidelines for a free lunch and 95 per centum above income levels in the income poverty guidelines.

Pub. L. 94–105, § 6(c), substituted provision adjusting the income poverty guidelines that take effect July 1 of each year according to the percentage change in the Consumer Price Index for the 12-month period ending in April of that year, except that the first adjustment, effective July 1, 1976, shall be made according to the percentage change between the average Consumer Price Index for 1974, on which the 1975–1976 guidelines are based, and the Consumer Price Index for April 1976 for provision basing the guidelines on the average Consumer Price Index for the previous calender year.

Subsec. (b)(2). Pub. L. 94–105, § 6(d), added subsec. (b)(2).

Subsec. (c). Pub. L. 94–105, § 6(e), substituted "schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title)" for "nonprofit private schools".

1974—Subsec. (b). Pub. L. 93–326 substituted "beginning with the fiscal year ending June 30, 1974" for "for the fiscal year ending June 30, 1974" in provision authorizing State educational agencies to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.

1973—Subsec. (b). Pub. L. 93–150 added proviso relating to income guidelines for reduced price lunches.

1972—Subsec. (a). Pub. L. 92–433, § 5(a), designated the first sentence as subsec. (a).

Subsec. (b). Pub. L. 92–433, § 5(b), designated second through seventh sentences of existing provisions as subsec. (b), and in subsec. (b), separated provisions relating to free and reduced price lunches, substituted May 15 of each year for July 1 of each year as the date by which the Secretary is required to prescribe an income poverty guideline, prescribed free lunch for children of households below the guideline instead of prior provision requiring free lunch or lunch at reduced price, authorized State educational agencies to set up family-size income levels for free and reduced price lunches to be within certain percentage limitations of the guideline prescribed by the Secretary, and provided for continuation until July 1, 1973 of higher guidelines established prior to July 1, 1972.

Subsec. (c). Pub. L. 92–433, § 5(c), designated eighth through thirteenth sentences as subsec. (c), and in the last sentence of such subsec. (c), added provision that requirements of this section are not applicable to nonprofit private schools which participate in the school lunch program under this chapter until the State educational agency certifies about the funds.

1971—Pub. L. 92–153 inserted provisions for consideration of income poverty guidelines during fiscal year 1972 as a national minimum standard of eligibility and for reimbursement of State agencies during such fiscal year pursuant to eligibility standards established by State agencies prior to Oct. 1, 1971.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(c) of Pub. L. 94–105 provided in part that the amendment by section 6(c) of Pub. L. 94–105 is effective Jan. 1, 1976.

LOWERING MINIMUM STANDARD OF ELIGIBILITY AND REDUCTION IN NUMBER OF CHILDREN SERVED, FISCAL YEAR 1972

Section 6 of Pub. L. 92–153 provided that: "The Secretary shall not lower minimum standards of eligibility for free and reduced price meals nor require a reduction in the number of children served in any school district during a fiscal year to be effective for that fiscal year. This section shall apply to fiscal year 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1755, 1759a, 1760, 1766, 1773, 1774 of this title.

§ 1759. Direct disbursement to schools by Secretary.

If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this chapter to any of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 1756 of this title for such State, by funds from sources within the State expended by such schools within the State participating in the school lunch program under this chapter. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 1756 of this title. (As amended Sept. 26, 1972, Pub. L. 93–433, § 4(d), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, § 3(b), 87 Stat. 562; Oct. 7, 1975. Pub. L. 94–105, § 7, 89 Stat. 514.)

AMENDMENTS

1975—Pub. L. 94–105 altered the provisions of this section to accommodate the authorization of direct payments to private nonprofit schools and institutions in conformity with the revised allocation method for school lunch funds and the expanded definition of "school" to include any public or licensed nonprofit residential child care institution, including but not limited to, orphanages and homes for the mentally retarded.

1973—Pub. L. 93–150 inserted in the proviso reference to section 1759a of this title.

1972—Pub. L. 92–433 added proviso that beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments directly to the nonprofit private schools for the purpose of section 1753 of this title under the same conditions as are prescribed for State educational agencies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1756, 1758, 1759a, 1773, 1774 of this title.

§ 1759a. Special assistance funds.

(a) Formula for computation of payments; special-assistance factors; semiannual adjustments based on changes in series for food away from home of Consumer Price Index; base period for adjustments.

Except as provided in section 1759 of this title, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a com-

bination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758 (a) of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semi-annual adjustments in the national average rates for lunches served under section 1753 of this title and the special-assistance factor for the lunches served under this section and the national average rates for breakfasts served under section 1773 of this title, that shall reflect changes in the cost of operating a school lunch and breakfast program under this chapter and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Financing cost of free and reduced-price lunches on basis of need of school for special assistance; maximum per lunch amount.

Except as provided in section 1779 of this title, the special State assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to section 1758(b) of this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Payments to States.

Special assistance payments to any State under this section shall be made as provided in the last sentence of section 1756 of this title.

(d) Terms and conditions.

In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this chapter, including those applicable to funds apportioned or paid pursuant to section 1753 or 1754 of this title but excluding the provisions of section 1756 of this title relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e) Submission of State plan of child nutrition operations, contents; report of school to State educational agency, contents; report of State educational agency to the Secretary, contents.

(1) Each year by not later than a date specified by the Secretary, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this chapter and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this chapter and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 1758 of this title; (B) to extend the school-lunch program under this chapter to every school within the State, and (C) to use the funds provided under section 1761 of this title and section 1773 of this title and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school lunch program under this chapter shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch. (As amended Nov. 5, 1971. Pub. L. 92–153, § 4,

85 Stat. 420; Nov. 7, 1973, Pub. L. 93–150, § 3(a), 87 Stat. 561; Oct. 7, 1975, Pub. L. 94–105, § 8, 89 Stat. 514.)

CODIFICATION

"This chapter and the Child Nutrition Act of 1966" was substituted for "these Acts", as enacted by section 3(a) of Pub. L. 93–150, in the classification of Pub. L. 93–150 to the Code.

AMENDMENTS

1975—Subsec. (e)(1). Pub. L. 94–105 substituted "Each year by not later than a date specified by the Secretary" for "Not later than January 1 of each year", and "following school year" for "following fiscal year".

1973—Subsec. (a). Pub. L. 93–150 added subsec. (a) and struck out former subsec. (a) provisions relating to appropriations authorization for fiscal year ending June 30, 1971, and succeeding fiscal years of such sums as may be necessary to provide special assistance to assure access to the school lunch program under this chapter by children of low-income families.

Subsec. (b). Pub. L. 93–150 added subsec. (b) and struck out former subsec. (b) provisions relating to formula for apportionment of funds and need for additional funds.

Subsec. (c). Pub. L. 93–150 redesignated former subsec. (d) as (c), substituted "Special assistance payments to any State" for "Payment of the funds apportioned to any State", and struck out former subsec. (c) provisions relating to basis for apportionment among States and need for additional funds.

Subsec. (d). Pub. L. 93–150 redesignated former subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 93–150 redesignated subsec. (h) as (e) struck out former subsec. (e) provisions relating to State disbursement to schools for financing operating costs of the school lunch program and basis for determination of amount of funds. Subject matter is now covered by subsecs. (a) and (b) of this section.

Subsec. (f). Pub. L. 93–150 struck out subsec. (f) provisions relating to withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools and direct disbursement to nonprofit private schools, and conditions thereof.

Subsec. (g). Pub. L. 93–150 redesignated former subsec. (g) as (d).

Subsec. (h). Pub. L. 93–150 redesignated former subsec. (h) as (e).

1971—Subsec. (e). Pub. L. 92–153 established a reimbursement rate as amount of funds to be disbursed to schools in a State, provided for receipt of a greater amount or reimbursement per meal if the school established financial inability to support service of meals, and prescribed maximum per meal amount and higher maximum per meal amount for especially needy schools.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES; SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under section 612(c) of Title 7, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see section 1 of Pub. L. 92–153, set out as a note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1757, 1759, 1766, 1776 of this title.

§ 1760. State accounts and records; inspection and audit; period of retention; definition.

* * * * *

(d) For the purposes of this chapter—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

* * * * *

(3) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for schoolchildren.

(4) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this chapter in the State, as determined by the Secretary.

(5) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.

(6) "School" means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of Title 26.

(e) The value of assistance to children under this chapter shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. (As amended Oct. 7, 1975, Pub. L. 94–105, § 9, 89 Stat. 514.)

AMENDMENTS

1975—Subsec. (d)(1). Pub. L. 94–105, § 9(b), added reference to the Trust Territory of the Pacific Islands.

Subsec. (d)(3). Pub. L. 94–105, § 9(a), redesignated former subsec. (d)(4) as (d)(3). Former subsec. (d)(3) defining "Nonprofit private schools" was struck out.

Subsecs. (d)(4), (5). Pub. L. 94–105, § 9(a), redesignated former subsecs. (d)(4) and (5) as (d)(3) and (4), respectively.

Subsec. (d)(6). Pub. L. 94–105, § 9 (a), (c), redesignated former subsec. (d)(7) as (d)(6), and as so redesignated, expanded the definition of "school" to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded, and added provision defining the term "nonprofit" as any school or institution exempt under section 501(c)(3) of Title 26.

Subsec. (d)(7). Pub. L. 94–105, § 9(a), redesignated subsec. (d)(7) as (d)(6).

Subsec. (e). Pub. L. 94–105, § 9(d), added subsec. (e).

STUDY OF COST ACCOUNTING REQUIREMENTS

Section 21 of Pub. L. 94–105 provided that:

"(a) The Secretary shall not delay or withhold, or cause any State to delay or withhold, payments for reimbursement of per-meal costs with respect to school food service programs authorized pursuant to the National School Lunch Act [this chapter] and Child Nutrition Act of 1966 [section 1771 et seq. of this title] on the basis of noncompliance with full cost accounting procedures unless and until the requirements of subsection (b) of this section are met.

"(b) The Secretary shall study the additional personnel and training needs of States, local school districts, and schools resulting from the imposition of a requirement to implement full cost accounting procedures under the National School Lunch Act [this chapter] and Child Nutrition Act of 1966 [section 1771 et seq. of this title], and, on the basis of the results of such study, shall within one year after the date of enactment of this Act [Oct. 7, 1975], submit a report and make such legislative recommendations as he deems necessary to the appropriate committees of the Congress."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1758 of this title.

§ 1761. Summer food service programs for children in service institutions.

(a) Authorization of appropriations; definitions; eligibility.

(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, for the period July 1, 1976, through September 30, 1976, and for the fiscal year ending September 30, 1977, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means nonresidential public or private, nonprofit institutions, and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 during the school year. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools. Any eligible service institution shall receive the summer food program upon its request.

(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance.

(3) For the purposes of this section, "poor economic conditions" shall mean an area in which at least 33⅓ per centum of the children are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources. "State" shall mean any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Disbursements to service institutions; maximum rates for food and administrative costs; adjustment of rates.

Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: *Provided,* That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs. No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

(c) Disbursements for meals served during May through September; exceptions for continuous school calenders.

Disbursements shall be made to service institutions only for meals served during the months of May through September, except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section.

(d) Advance payment for monthly meal service.

No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each State an advance payment for meals to be served in that month pursuant to subsection (b) of this section, which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) of this section for the same calendar month of the preceding calendar year or

(2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) of this section in that month, whichever is the greater. The Secretary shall forward any remaining payment due pursuant to subsection (b) of this section no later than 60 days following receipt of valid claims. Any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day. Institutions operating programs during nonsummer vacations during a continuous school year calendar shall receive advance payments not later than the first day of each month involved.

(e) Nutritional standards; free cost meals to children in approved institutions.

Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section.

(f) Regulations; promulgation; publication; startup costs for meals served in previous summer.

The Secretary shall publish proposed regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. In order to improve program planning, the Secretary is authorized to provide that service institutions receive as startup costs not to exceed 10 per centum of the Federal funds provided such service institutions for meals served pursuant to this section during the preceding summer. Any such startup costs shall be subtracted from payments subsequently made to service institutions for meals served pursuant to subsection (b) of this section.

(g) Use of abundant or donated food.

Each participating service institution shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of Title 7, or purchased under section 612c of Title 7, or section 1446a–1 of Title 7, shall be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(h) Direct disbursement to service institutions by Secretary.

If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall disburse the funds directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(i) Nondiminution of expenditure of State and local funds by reason of federal funds.

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(j) Administrative expenses of Secretary; authorization of appropriations.

There is hereby authorized to be appropriated such sums as may be necessary for the Secretary's administrative expenses under this section.

(k) Administrative costs of State.

The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b) of this section: *Provided,* That no State shall receive less than $10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) of this section total less than $50,000 for such fiscal year.

(*l*) Competitive contracts for furnishing of meals and administration of program.

Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

(m) Accounts and records.

States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary. (As amended June 30, 1971, Pub. L. 92–32, § 7, 85 Stat. 86; Sept. 26, 1972, Pub. L. 92–433, §§ 1, 2, 86 Stat. 724; May 2, 1975, Pub. L. 94–20, 89 Stat. 82; Oct. 7, 1975, Pub. L. 94–105, § 13, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (3) is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A (section 1771 et seq.) of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105 substituted provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1977, for provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1975.

Subsec. (a)(1). Pub. L. 94–20, § 1(a), inserted "and for the period July 1, 1975, through September 30, 1975," preceding "to enable".

Subsec. (b). Pub. L. 94–105 substituted provisions for payment to service institutions of the full cost of obtaining, preparing and serving food and administrative costs, with maximum rates for each kind of meal and its related administrative cost and adjustment of the rates each March 1 on the basis of changes in the series for food away from home of the Consumer Price Index for provisions apportioning among the states the appropriated sums, with a maximum basic grant of $50,000, and reserving 2 per centum of the appropriated sums for

apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Subsec. (c). Pub. L. 94–105 substituted provisions for disbursement to service institutions only for meals served during May through Sept. except for institutions with programs for children on school vacation at any time under a continuous school calender for provisions for the disbursement of funds by the State educational agency to service institutions on a nondiscriminatory basis for the cost of obtaining agricultural commodities and other foods, purchase and rental of equipment and authorizing financial assistance not to exceed 3 per centum of the operating costs in cases of severe need.

Subsec. (d). Pub. L. 94–105 substituted provisions relating to the advance payment to States for meals served in that month and deductions in the next month for advances for which valid claims have not been established within 180 days for provisions for the disbursement of funds directly to service institutions in states where the State educational agency is forbidden by law to disburse funds to such institutions.

Subsec. (e). Pub. L. 94–105 substituted provisions for free meals consisting of a combination of foods and meeting minimum nutritional standards for provisions making available for the first three months of the next fiscal year any funds unobligated at the end of the prior fiscal year.

Subsec. (f). Pub. L. 94–105 substituted provisions directing the Secretary to publish proposed and final regulations, guidelines, and handbooks and authorizing startup costs for meals served during the preceeding summer for provisions for free or reduced cost meals with minimum nutritional standards and prohibiting segregation, discrimination or overt identification practices with regard to any child because of his inability to pay.

Subsec. (g). Pub. L. 94–105 substituted provisions directing the utilization of foods donated or designated as in abundance by the Secretary and directing the donation of food available under section 1431, 612c and 1446a–1 of Title 7 irrespective of the amount of funds appropriated under this section for provisions directing further apportionment among the States if any State cannot utilize all funds apportioned to it or additional funds are made available.

Subsec. (h). Pub. L. 94–105 substituted provisions authorizing the Secretary to disburse funds directly to service institutions in States where the educational agency is not permitted by law or is otherwise unable to dispurse the funds for provisions requiring certification by the Secretary to the Secretary of the Treasury of amounts to be paid, directing the utilization of donated foods or foods designated as abundant, permitting donation of food available under sections 1431, 612c or 1446a–1 of Title 7 irrespective of funds appropriated, mandating that value of assistance to children under this section not be considered income, that expenditures of State and local funds not be diminished as a result of federal funding, authorizing approoriations for administrative expenses and requiring States and State educational agencies and service institutions to keep and make available for inspection such accounts and records as may be necessary.

Subsec. (i). Pub. L. 94–105 substituted provision that the amount of State and local funds spent for food programs not be diminished as a result of funds received under this program for provisions authorizing the Secretary of Agriculture to utilize during May 15 to Sept. 15, 1972 not to exceed $25,000 of funds available under section 612c of Title 7 to carry out the purposes of this chapter, such funds to be reimbursed out of any supplemental appropriation.

Subsec. (j). Pub. L. 94–105 substituted provision authorizing to be appropriated such sums as may be necessary for the Secretary's administrative expenses, for provisions adjusting the reimbursement rate for meals served during May through Sept. 1975 to the nearest quarter cent to reflect changes since the period of May through Sept. 1974 in the cost of operating special summer food programs.

Pub. L. 94–20, § 1(b), added subsec. (j).

Subsec. (k). Pub. L. 94–105 substituted provisions directing the Secretary to pay each State for administrative costs an amount equal to 2 per centum of funds distributed under subsec. (b), with no State to receive less than $10,000 unless funds distributed to such State total less than $50,000 for provisions directing the Secretary to issue regulations no later than ten days following May 2, 1975 pertaining to operations of the program during the months of May through Sept. 1975, with the proviso that such regulations shall in no way differ from current regulations except for changes necessary to implement this chapter.

Pub. L. 94–20, § 1(b), added subsec. (k).

Subsecs. (*l*), (m). Pub. L. 94–105 added subsecs. (*l*) and (m).

1972—Subsec. (a)(1). Pub. L. 92–433, § 2(a), substituted authorization of appropriation of such sums as are necessary for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of $32,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (a)(2). Pub. L. 92–433, § 2(b), added provisions authorizing special summer programs to utilize the existing food service facilities of public and nonprofit private schools to the maximum extent feasible.

Subsec. (f). Pub L. 92–433, § 1, added subsec. (i).

1971—Subsec. (a)(1). Pub. L. 92–32, § 7(a), authorized appropriations of 32 million dollars for fiscal years ending June 30, 1972, and 1973, as were authorized for fiscal years ending June 30, 1969, 1970, and 1971, and substituted in first sentence "program" for "pilot program".

Subsec. (c)(2). Pub. L. 92–32, § 7(b), provided that non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 13 of Pub. L. 94–105 provided in part that the amendment by Pub. L. 94–105 is effective Oct. 1, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1755, 1759a, 1766, 1776 of this title.

§ 1762a. Commodity distribution program.

(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1977, shall—

(1) use funds available to carry out the provisions of section 612c of Title 7 which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this chapter, the Child Nutrition Act of 1966, and title VIII of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 1431 of Title 7, for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products. (June 4, 1946, ch. 281, § 14, as added June 30, 1974, Pub. L. 93–326, § 2, 88 Stat. 286, and amended Oct. 7, 1975, Pub. L. 94–105, § 10, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (1), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified to section 1771 et seq. of this title.

Title VII of the Older Americans Act of 1965, referred to in par. (1), is classified to section 3045 et seq. of this title.

AMENDMENTS

1975—Pub. L. 94–105 designated existing provisions as subsec. (a), and as so designated, substituted "September 30, 1977" for "June 30, 1975", and added subsec. (b).

§ 1763. National Advisory Council on Child Nutrition.

(a) Establishment; membership.

There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof) one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member, shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) Terms of members.

The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that the nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

* * * * *

(e) Quorum.

Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

* * * * *

(June 4, 1946, ch. 281, § 15, formerly § 14, as added May 14, 1970, Pub. L. 91–248, § 9, 84 Stat. 213, amended Nov. 7, 1973, Pub. L. 93–150, § 8, 87 Stat. 564, renumbered June 30, 1974, Pub. L. 93–326, § 2, 88 Stat. 286.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–150, § 8(1), increased from thirteen to fifteen the membership of the Council and provided that one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof) and one member shall be a supervisor of a school lunch program in a school system in a rural area.

Subsec. (b). Pub. L. 93–150, § 8(2), substituted in first sentence "eleven" for "nine" members and "nine members first appointed" for "such members first appointed".

Subsec. (e). Pub. L. 93–150, § 8(3), increased quorum requirement from seven to eight members.

§ 1764. Repealed. Pub. L. 94–105, § 22, Oct. 7, 1975, 89 Stat. 528

Section, act June 4, 1946, ch. 281, § 15, as added June 30, 1971, Pub. L. 92–32, § 1, 85 Stat. 85, authorized the use, during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out the provisions of this chapter, with unexpended funds to remain available in accordance with the last sentence of section 1752 of this title.

§ 1765. Cash payment in lieu of donated foods; election, payment, disbursement and use.

(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(e) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs. (June 4, 1946, ch. 281, § 16, as added Oct. 7, 1975, Pub. L. 94–105, § 12, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified to section 1771 et seq. of this title.

§ 1766. Child care food program.

(a) Authorization of appropriations.

(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit food service programs for children in institutions providing child care.

(2) For purposes of this section, the term "institution" means any public or private nonprofit organization where children are not maintained in permanent residence including, but not limited to, day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children. No institution shall be eligible to participate in this program unless it has either local, State, or Federal licensing or approval as a child care institution, or can satisfy

the Secretary that its standards are no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. An institution may be approved for funding under this section only if, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status under section 501(c)(3) of Title 26, or is currently operating a federally funded program requiring nonprofit status. For purposes of this section, the term "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible institution shall receive the child care food program upon its request.

(b) Formula for computation of payments; semiannual adjustments based on changes in series for base period for adjustments.
food away from home of Consumer Price Index;

For each fiscal year beginning with the fiscal year ending June 30, 1976, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State educational agency in an amount no less than the sum of the products obtained by multiplying (A) the number of breakfasts served in child care food programs within that State by the national average payment rate for breakfasts under section 1773 of this title, (B) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free breakfasts under section 1773 of this title, (C) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by the national average payment rate for reduced price school breakfasts under section 1773 of this title, (D) the number of lunches and suppers served in child care food programs within that State by the national average payment rate for lunches under section 1753 of this title, (E) the number of lunches and suppers served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free school lunches under section 1759a of this title, (F) the number of lunches and suppers served in child care food programs in that State to children whose families meet the eligibility criteria for reduced price school meals by the national average payment factor for reduced price lunches under section 1759a of this title, (G) the number of snacks served in child care food programs in that State by 5 cents, (H) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for free school meals by 15 cents, and (I) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by 10 cents. The rates established pursuant to clauses (G), (H), and (I) shall be adjusted semiannually to the nearest one-fourth cent by the Secretary to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall become effective January 1, 1976, and shall reflect changes in the series for food away from home during the period June through November 1975. Reimbursement for meals provided under this section shall not be dependent upon the collection of moneys from participating children.

(c) Nutritional standards; discrimination and overt identification prohibited.

Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day.

(d) State disbursements to institutions.

Funds paid to any State under this section shall be disbursed by the State educational agency to institutions approved for participation on a nondiscriminatory basis to reimburse such institutions for their costs in connection with food service operations, including labor and administrative expenses. All valid claims from such institutions shall be paid within 30 days.

(e) Donation of agricultural commodities; cash in lieu of commodities.

Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of Title 7 or purchased under section 612c of Title 7, or section 1446a–1 of Title 7, shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a State educational agency, cash in lieu of commodities in such amounts as may be provided in appropriations Acts) donated to each State for each fiscal year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 1755(e) of this title.

(f) Direct disbursement to institutions by Secretary; conditions.

If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution in the State, the Secretary shall disburse the funds so withheld directly to institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(g) Nondiminution in expenditure of State and local funds by reason of federal funds.

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(h) Administrative expenses of Secretary; authorization of appropriations.

There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary for the Secretary's administrative expenses under this section.

(i) Accounts and records.

States, State educational agencies, and institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(j) Nonfood assistance; apportionment; apportionment of unused funds.

(1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, $3,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, nonfood assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $3,000,000: *Provided,* That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary under section 1758(b) of this title.

(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist institutions determined by the State to be especially needy.

(k) Rules and regulations.

The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after October 7, 1975. During the period prior to the effective date of the regulations, the Secretary is authorized to conduct a food service program in the same manner and under the same conditions and limitations as the special food service program for children was conducted under section 1761 of this title during the fiscal year ending June 30, 1975. Notwithstanding the foregoing, the child care food payment rates provided in subsection (b) of this section and the provisions of subsection (e) of this section shall become effective on October 7, 1975. (June 4, 1946, ch. 281, § 17, as added Oct. 7, 1975, Pub. L. 94–105, § 16, 89 Stat. 522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

§ 1767. Nutrition program staff study.

The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this chapter and the Child Nutrition Act of 1966, and to determine the level of funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall assess State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this chapter and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976. (June 4, 1946, ch. 281, § 18, as added Oct. 7, 1975, Pub. L. 94–105, § 19, 89 Stat. 526.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified to section 1771 et seq. of this title.

§ 1768. Authorization of appropriations for the Trust Territory of the Pacific Islands.

There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of $500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of $125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this chapter and the Child Nutrition Act of 1966 to (1) establish or improve the organizational, administrative, and operational structures and systems at the State and local school levels; (2) develop and conduct necessary training programs for school food service personnel; (3) conduct a thorough study of the children's food and dietary habits upon which special meal and nutritional requirements can be developed;

and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible. (June 4, 1946, ch. 281, § 19, as added Oct. 7, 1975, Pub. L. 94–105, § 20, 89 Stat. 527.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified to section 1771 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

Chapter 13A.—CHILD NUTRITION

Sec.

1786. Special supplemental food program [New].
(a) Congressional declaration of purpose.
(b) Cash grants to state health departments, Indians, and other agencies for supplemental food to pregnant and lactating women and infants.
(c) Authorization of appropriations.
(d) Limitations of administrative costs; approval of manner of expenditure.
(e) Determination of eligibility.
(f) Medical records; reports to Congress.
(g) Definitions.
(h) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; functions compensation.
1787. Cash grants for nutrition education; authorization of appropriations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1752, 1755, 1759a, 1761, 1762, 1762a, 1763, 1765, 1767, 1768 of this title.

§ 1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement.

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk. For the fiscal year ending June 30, 1975, and for subsequent fiscal years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each fiscal year thereafter, beginning with the fiscal year ending June 30, 1976, to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children. (As amended Pub. L. 93–150, § 7, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93–347, § 3, July 12, 1974, 88 Stat. 341; Pub. L. 94–105, § 15(a), Oct. 7, 1975, 89 Stat. 522.)

AMENDMENTS

1975—Pub. L. 94–105 added the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands to the definition of "United States", and added the provision relating to the minimum rate of reimbursement to schools and institutions of the cost of milk served to children.

1974—Pub. L. 93–347 substituted "such sums as may be necessary" for ", not to exceed $120,000,000," in the provision limiting the size of appropriations authorized and added provisions setting a minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions and allowing for an annual adjustment of the minimum rate.

1973—Pub. L. 93–150 added provisions making any school or nonprofit child care institution eligible to receive the special milk program upon their request and any children that qualify for free lunches under guidelines set forth by the Secretary also eligible for free milk.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775, 1780 of this title.

§ 1773. School breakfast program.

(a) Establishment; authorization of appropriations.

There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this chapter. Appropriations and expenditures for this chapter shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

(b) Apportionment of funds to States.

Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and $45,000 equally among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 1753 of this title. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of break-

fasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfasts payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided,* That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast.

(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas, for students traveling long distances daily, and for schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d) of this section. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d) Increased financial assistance in cases of severe need.

In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 100 per centum of the operating costs of such a program, including cost of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

(e) Nutritional requirements; service free or at reduced price.

Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet the minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 1758 of this title.

(f) Nonprofit private schools.

For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the schools (as defined in section 1784(c) of this title which are private and nonprofit as defined in the last sentence of section 1784(c) of this title) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by State educational agencies.

(g) Expansion of program.

As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 4 months after October 7, 1975, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program. (As amended Pub. L. 92–32, §§ 2–5, June 30, 1971, 85 Stat. 85; Pub. L. 92–433, § 3, Sept. 26, 1972, 86 Stat. 724; Pub. L. 93–150, § 4, Nov. 7, 1973, 87 Stat. 562; Pub. L. 94–105, §§ 2, 3, 15(b), 17(a), Oct. 7, 1975, 89 Stat. 511, 522, 525.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105, § 2, struck out "for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975," following "such sums as are necessary".

Subsec. (b). Pub. L. 94–105, § 15(b), substituted "American Samoa, and the Trust Territory of the Pacific Islands"

for "and American Samoa" wherever appearing in cl. (1) of the first sentence.

Subsec. (f). Pub. L. 94–105, § 17(a), substituted "directly to the schools (as defined in section 1784(c) of this title which are private and nonprofit as defined in the last sentence of section 1784(c) of this title)" for "directly to the nonprofit private schools".

Subsec. (g). Pub. L. 94–105, § 3, added subsec. (g).

1973—Subsec. (b). Pub. L. 93–150, § 4(c), prescribed a minimum payment of 8 cents as the national average payment for all breakfasts served to eligible children, added provision for minimum payment of 15 cents for each reduced-price breakfast and for minimum payment of 20 cents for each free breakfast, and authorized, in cases of severe need, a payment of up to 45 cents for each breakfast served to children qualifying for a free breakfast.

Subsec. (c). Pub. L. 93–150, § 4(a), (b), substituted in first sentence "State educational agency to assist such schools in financing the costs of operating a breakfast program" for "State educational agency, to assist such schools in financing the cost of obtaining agricultural and other foods for consumption by needy children in a breakfast program" and deleted the former second sentence which provided that "Such food costs may include, in addition to the purchase price, the cost of processing, distributing, transporting, storing, and handling.", respectively.

1972—Subsec. (a). Pub. L. 92–433, § 3(a), substituted authorization of appropriation of such sums as are necessary for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of amounts not exceeding $25,000,000 for fiscal years 1972 and 1973 and made the amounts available to schools making applications for assistance and agreeing to carry out a nonprofit breakfast program in accordance with this chapter.

Subsec. (b). Pub. L. 92–433, § 3(b), made the existing apportionment formula applicable to the fiscal year ending June 30, 1973 and added new formula for fiscal years beginning with the fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 92–433, § 3(c), added provision that breakfast assistance disbursements to schools may be made in advance or by way of reimbursement in accordance with procedure prescribed by the Secretary.

Subsec. (e). Pub. L. 92–433, § 3(d), substituted provisions that breakfasts be served free or at reduced cost under the same terms and conditions as set forth in section 1758 of this title for provisions relating to determination by local school authorities of the inability of children to pay full cost, criteria for such determination, income poverty guidelines, affidavit of household's annual income, eligibility of nonprofit private schools for funds, and prohibition of discrimination on account of the inability to pay.

Subsec. (f). Pub. L. 92–433, § 3(e), substituted provisions that for fiscal year ending June 30, 1973, withholding and disbursement to nonprofit private schools will be effected as before and that commencing with the next fiscal year, the Secretary would directly make payments to the nonprofit private schools participating in the breakfast program under agreement with the Secretary for provisions that such withholding and disbursement be effected in accordance with section 1759 of this title with some exceptions.

1971—Subsec. (a). Pub. L. 92–32, § 2, authorized appropriations of 25 million dollars for fiscal years 1972, and 1973, and deleted provision for appropriation of 6.5, 10, and 25 million dollars for fiscal years, 1969, 1970, and 1971, respectively.

Subsec. (c). Pub. L. 92–32, § 3, substituted "assist such schools in financing the cost" for "reimburse such schools for the cost" and provided for preference of schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.

Subsec. (d). Pub. L. 92–32, § 4, increased financial assistance from "80" to "100" per centum.

Subsec. (e). Pub. L. 92–32, § 5, substituted provisions relating to criteria for determination of eligible children, income poverty guidelines, priority of neediest children, affidavit of household's annual income, and certification of availability of funds for nonprofit private schools, for former provision for determination of eligible children on basis of consultations of local school authorities with public welfare and health agencies.

REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Pub. L. 92–153, § 3, Nov. 5, 1971, 85 Stat. 420, provided that: "The Secretary of Agriculture shall immediately upon enactment of this resolution [Nov. 5, 1971] determine and report to Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs authorized by sections 4 and 5 of the Child Nutrition Act of 1966 [this section and section 1774 of this title] during the fiscal year ending June 30, 1972, at levels which will permit expansion of the school breakfast and school lunch programs to all schools desiring such programs as rapidly as practicable."

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Pub. L. 92–153, § 7, Nov. 5, 1971, 85 Stat. 420, provided that: "In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935 [section 612c of Title 7], for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program."

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Additional funds for direct distribution programs for diet of needy children suffering from general and continued hunger and payment of administrative costs of State or local welfare agency carrying out such programs, see section 6 of Pub. L. 92–32, set out as a note under section 612c of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1759a, 1766, 1775, 1776, 1777, 1780 of this title.

§ 1774. Nonfood assistance program.

(a) Establishment; equipment required for food service programs; authorization of appropriations.

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed $38,000,000, for the fiscal year ending June 30, 1972, not to exceed $33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $40,000,000 and for each succeeding fiscal year, not to exceed $40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand schools food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this chapter and in the National School Lunch Act, as amended, and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

(b) Apportionment of funds to States.

Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this

section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758 of this title) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such conditions shall not apply with respect to funds used under this section to assist schools if such schools are especially needy, as determined by the State.

* * * * *

(d) Nonprofit private schools.

If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758(a) of this title) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

(e) Reserve of funds.

For the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, 33⅓ per centum of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. For the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program to the number of children in all States enrolled in schools without a food service program. After the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, for the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program in such State bears to the total number of children enrolled in all schools without a food service program in such State. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, after the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. If any State cannot so utilize all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare or receive hot meals: *Provided*, That if after such further apportionments any funds reserved under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section to assist schools with a food service program and with the facilities to prepare or receive hot meals. Payment to any State of the funds provided to it under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools which are especially needy, as determined by the State. (As amended Pub. L. 92–433, § 6 (a)–(d), Sept. 26, 1972, 86 Stat. 727, 728; Pub. L. 93–326, § 5, June 30, 1974, 88 Stat. 287; Pub. L. 94–105, § 18, Oct. 7, 1975, 89 Stat. 525.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–105, § 18(a), added provision relating to the nonapplicability of the condition that at least one-fourth of the cost of equipment shall be from State funds where such schools are especially needy, as determined by the State.

Subsec. (e). Pub. L. 94–105, § 18(b), reduced from 50 per centum to 33⅓ per centum the amount to be reserved in the period through the fiscal year ending Sept. 30, 1977, added the requirement that the reserve be used also for schools without the facilities to prepare or receive hot meals, that after 1976 the number of schools

without facilities also be used in determining the apportionment of the reserve funds and the amount of funds to be withheld, and provided that, if States cannot use all the reserved funds initially apportioned, the remaining funds shall be reapportioned among the States for use in the assistance of schools without a food service or facilities to prepare or receive hot meals, with any funds unused after that reapportionment to be used to assist schools already having a food service program and facilities to prepare and receive hot meals.

1974—Subsec. (a). Pub. L. 93–326 increased from $20,000,000 to $40,000,000 the authorized appropriation for each fiscal year succeeding the fiscal year ending June 30, 1975.

1972—Subsec. (a). Pub. L. 92–433, § 6(a), increased the authorization of appropriations for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, from $15,000,000, $10,000,000, and $10,000,000 to $40,000,000 for each of the three years respectively, and for each of the succeeding fiscal years from $10,000,000 to $20,000,000.

Subsec. (b). Pub. L. 92–433, § 6(b), substituted provisions that funds appropriated except those reserved under subsec. (e), shall be apportioned among the states on the basis of the ratio of lunches served in each State to the total number of lunches served in all States in the latest year for which statistics are available, and that unused funds be distributed in the same proportion, for provisions that 50 percent of the funds be apportioned in the manner provided in section 1753 of this title and that the remaining funds be apportioned according to the ratio of the number of children in schools without food service in such State to the total number of children in all States without food service.

Subsec. (d). Pub. L. 92–433, § 6(c), substituted provisions authorizing the Secretary to administer programs under this section in nonprofit private schools where the State educational agency is prohibited to administer and further authorized the Secretary to withhold from the funds apportioned to the state an amount bearing the same ratio to the funds as the number of lunches served in nonprofit private schools to the total number of lunches served in all schools within that State in the latest year for which data are available for provisions requiring that the withholding and disbursement of funds to nonprofit private schools be effected in accordance with section 1759 of this title, exclusive of the matching provisions thereof.

Subsec. (e). Pub. L. 92–433, § 6(d), added subsec. (e).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 18(b) of Pub. L. 94–105 provided in part that the amendment by section 18(b) of Pub. L. 94–105 is effective beginning with the fiscal year ending June 30, 1976.

REPORT TO CONGRESS OF NEEDS FOR EQUIPMENT TO BE SUBMITTED BY JUNE 30, 1973

Section 6(e) of Pub. L. 92–433 provided that: "To assist the Congress in determining the amounts needed annually, the Secretary is directed to conduct a survey among the States and school districts on unmet needs for equipment in schools eligible for assistance under section 5 of the Child Nutrition Act [this section]. The results of such survey shall be reported to the Congress by June 30, 1973."

REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Report to Congress of needs for additional funds for nonfood assistance program under this section for fiscal year ending June 30, 1972, see section 3 of Pub. L. 92–153, Nov. 5, 1971, 85 Stat. 420, set out as a note under section 1773 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1775, 1776, 1780 of this title.

§ 1779. Rules and regulations; transfer of funds from one program to another; special projects.

The Secretary shall prescribe such regulations as he may deem necessary to carry out this chapter and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this chapter or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects. (As amended Pub. L. 92–433, § 7, Sept. 26, 1972, 86 Stat. 729.)

AMENDMENTS

1972—Pub. L. 92–433 added provision that regulations issued under the section shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food if the proceeds from the sales of such foods inures to the benefit of the schools or organizations of students approved by the school.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1759a of this title.

§ 1784. Definitions.

For the purposes of this chapter—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

* * * * *

(c) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of Title 26.

(d) "Secretary" means the Secretary of Agriculture.

(As amended Pub. L. 94–105, §§ 15(c), 17(b), Oct. 7, 1975, 89 Stat. 522, 525.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105, § 15(c), added the Trust Territory of the Pacific Islands to the definition of "State".

Subsecs. (c) to (e). Pub. L. 94–105, § 17(b), struck out former subsec. (c) defining "Nonprofit private school" as any private school exempt from income tax under section 501(c)(3) of Title 26, redesignated subsecs. (d) and (e) as (c) and (d) respectively, and in subsec. (c) as so redesignated, added to the definition of "School" any public or licensed nonprofit private residential child

care institution (including, but not limited to, orphanages and homes for the mentally retarded), and provision defining "nonprofit" as an exemption under section 501 (c) (3) of Title 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773 of this title; title 12 section 1717.

§ 1785. Accounts and records; availability for inspection.

STUDY OF COST ACCOUNTING REQUIREMENTS

Secretary prohibited from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per meal costs on the basis of noncompliance with full cost accounting procedure unless and until the Secretary has studied additional personnel and training needs of States, local school districts and schools resulting from imposition of requirement to implement full cost accounting procedures, see section 21 of Pub. L. 94–105, set out as a note under section 1760 of this title.

§ 1786. Special supplemental food program.

(a) Congressional declaration of purpose.

The Congress finds that substantial numbers of pregnant women, infants, and young children are at special risk in respect to their physical and mental health by reason of poor or inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems.

(b) Cash grants to state health departments, Indians, and other agencies for supplemental food to pregnant and lactating women and infants.

(1) During the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, the Secretary shall make cash grants to the health department or comparable agency of each State, Indian tribe, band or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare, serving local health or welfare needs to enable such agencies to carry out health and nutrition programs under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income, in order to improve their health status. The program authorized by this section shall be carried out supplementary to the food stamp and food distribution program and operate side by side with existing supplemental food programs.

(2) Any eligible local health or welfare agency or private nonprofit agency that applies to operate such a supplemental food program immediately shall be provided with the necessary funds to carry out the program. The requirements set forth herein shall not be construed to permit the Secretary to reduce ratably the amount of foods that an eligible health or welfare agency shall distribute under the program to pregnant or lactating mothers and infants.

(c) Authorization of appropriations.

In order to carry out such program during each fiscal year during the period ending September 30, 1977, there is authorized to be appropriated the sum of $250,000,000, but in the event that such sum has not been appropriated for such purpose by the beginning of each fiscal year, the Secretary shall use $250,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $250,000,000, out of funds appropriated by section 612c of Title 7. Any funds expended from such section 612c to carry out the provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 612c, to be available for the purpose of such section. In order to carry out the program during the fiscal year ending September 30, 1978, there is authorized to be appropriated not to exceed $250,000,000.

(d) Limitations of administrative costs; approval of manner of expenditure.

Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 20 per centum of the program funds provided to each State under the authority of this section. Each health department or comparable agency of each State, Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare receiving funds from the Secretary under this section shall, by January 1 of each year (by December 1 in the case of fiscal year 1976), for approval by the Secretary as a prerequisite to receipt of funds under this section, submit a description of the manner in which administrative funds shall be spent, including, but not limited to, a description of the manner in which nutrition education services will be provided. The Secretary shall take affirmative action to insure that programs begin in areas most in need of special supplemental food. During the first 3 months of any program, or until the program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully.

(e) Determination of eligibility.

The eligibility of persons to participate in the program provided for under this section shall be determined by competent professional authority. Participants shall be residents of areas or members of populations served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(f) Medical records; reports to Congress.

State or local agencies or groups carrying out any programs under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the

benefits of the nutritional assistance provided under this section. The Secretary shall convene an advisory committee made up of representatives from the Maternal and Child Health Division of the Department of Health, Education, and Welfare, the Center for Disease Control, the Association of State and Territorial Public Health Nutrition Directors, the American Academy of Pediatrics, the National Academy of Science—National Research Council, the American Dietetic Association, the American Public Health Association, the Public Health Service, and others as the Secretary deems appropriate. The committee shall study the methods available to evaluate successfully and economically, in part or in total, the health benefits of the special supplemental food program. The committee's study shall consider the usefulness of the medical data collected and the methodology used by the Department of Agriculture and the Comptroller General of the United States prior to March 30, 1975. The study shall also include the applicability to an evaluation of the special supplemental food program of other Federal and State health, welfare, and nutrition assessment and surveillance projects currently being conducted. The purpose of the advisory committee shall be to determine and recommend in detail how, using accepted scientific methods, the health benefits of the special supplemental food program may best be evaluated and assessed. The advisory committee shall report its study to the Secretary no later than March 1, 1976. The Secretary shall submit to Congress his recommendations based on such study no later than June 1, 1976.

(g) Definitions.

As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term "at nutritional risk" includes women from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia. Such lactating women shall include women who are breast feeding an infant from birth up to one year of age and also all women for a period of six months post partum.

(2) "Infants" when used in connection with the term "at nutritional risk" means children under 5 years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include children under 5 years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall means those foods containing nutrients known to be lacking in the diets of populations at nutritional risk and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any commercially formulated preparation specifically designed for women or infants. The contents of the food package shall be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(5) "Administrative costs" include costs for referral, operation, monitoring, nutrition education, general administration, startup, clinic, and administration of the State office.

(h) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; functions; compensation.

(1) There is hereby established a council to be known as the National Advisory Council on Maternal, Infant, and Fetal Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of 15 members appointed by the Secretary. One member shall be a State director of the special supplemental food program, 1 member shall be a State fiscal director for the special supplemental food program (or the equivalent thereof), 1 member shall be a State health officer (or equivalent thereof), 1 member shall be a project director of a special supplemental food program in an urban area, 1 member shall be a project director of a special supplemental food program in a rural area, 1 member shall be a State public health nutrition director (or equivalent thereof), 2 members shall be parent recipients of the special supplemental food program, 1 member shall be a pediatrician, 1 member shall be an obstetrician, 1 member shall be a person involved at the retail sales level of food in the special supplemental food program, 2 members shall be officers or employees of the Department of Health, Education, and Welfare, specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition, and 2 members shall be officers or employees of the Department of Agriculture, specially qualified because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition.

(2) The 11 members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms of 3 years, except that the 9 members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of 3 years, 3 members shall be appointed for terms of 2 years, and 3 members shall be appointed for terms of 1 year. Thereafter all appointments shall be for a term of 3 years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture and

the Department of Health, Education, and Welfare, shall serve at the pleasure of the Secretary.

(3) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(4) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(5) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(6) It shall be the function of the Council to make a continuing study of the operation of the special supplemental food program and any related Act under which diet supplementation is provided to women, infants, and children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(7) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this chapter.

(8) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. (Pub. L. 89–642, § 17, as added Pub. L. 92–433, § 9, Sept. 26, 1972, 86 Stat. 729, and amended Pub. L. 93–150, § 6, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93–326, § 6, June 30, 1974, 88 Stat. 287; Pub. L. 94–28, May 28, 1975, 89 Stat. 96; Pub. L. 94–105, § 14, Oct. 7, 1975, 89 Stat. 518.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–105 added subsec. (a). Former subsec. (a) redesignated (b).

Pub. L. 94–28, § 1(a), added "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (b)(1), (2). Pub. L. 94–105 redesignated former subsec. (a) as (b)(1), added (b)(2), and in (b)(1) as so redesignated, extended the program from Sept. 30, 1975 through the fiscal year ending Sept. 30, 1978 and made minor changes in phraseology. Former subsec. (b) redesignated (c).

Pub. L. 94–28, § 1(b), added "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (c). Pub. L. 94–105 redesignated former subsec. (b) as (c), and in subsec. (c) as so redesignated, authorized the appropriation of $250,000,000 during each fiscal year during the period ending Sept. 30, 1977, authorized the amount of $250,000,000 which the Secretary can use out of the funds appropriated by section 612c of Title 7 in the event that less than $250,000,000 has been appropriated by the beginning of each fiscal year and authorized the appropriation of not to exceed $250,000,000 during the fiscal year ending Sept. 30, 1978. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94–105 redesignated former subsec. (c) as (d), and in subsec. (d) as so redesignated, increased from 10 to 20 per centum the amount of administrative costs the Secretary is authorized to pay except that in the first 3 months or until the projected caseload level has been reached the Secretary shall pay those administrative costs necessary to commence the program successfully, added the provision relating to the submission for approval of a description of the manner in which administrative funds shall be spent, and directed the Secretary to take affirmative action to insure that programs begin in the most needy areas. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94–105 redesignated former subsec. (d) as (e) and in subsec. (e) as so redesignated, substituted "under this section" for "under subsection (a) of this section" and added "or members of populations" following "residents of areas". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94–105 redesignated former subsec. (e) as (f), and in subsec. (f) as so redesignated, substituted provisions relating to the convention of an advisory committee to study methods available to evaluate the health benefits of the program with a report to the Secretary who shall report to Congress no later than June 1, 1976, for provision that the Secretary and Comptroller General of the United States submit preliminary reports to Congress no later than Oct. 1, 1974 and submit no later than March 30, 1975 evaluations of the program and recommendations with regard to its continuation. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 94–105 redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, substituted "includes women from" for "includes mothers from", and added to the definition of lactating women who are breast feeding an infant up to one year of age and all women for a period of six months post partum, in par. (1); substituted "5 years" for "four years" wherever appearing and added "(at the discretion of the Secretary)" following "may also include", in par. (2); struck out "food product" preceding "commercially formulated", added "women or" preceding "infants" and added the provision relating to the availability of the contents of the food package, in par. (3).

Subsec. (h). Pub. L. 94–105 added subsec. (h).

1974—Subsec. (b). Pub. L. 93–326 increased from $40,000,000 to $100,000,000 the appropriation authorization for the fiscal year ending June 30, 1975, and increased from $40,000,000 to $100,000,000 the amount which the Secretary can use out of the funds appropriated by section 612c of Title 7 in the event that less than $100,000,000 has been appropriated by Aug. 1, 1974, for carrying out the special supplemental food program for the fiscal year ending June 30, 1975.

1973—Subsec. (a). Pub. L. 93–150, § 6(a), provided for cash grants during fiscal year ending June 30, 1975, substituted in first sentence in two instances "State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare" for "State", and substituted in second sentence provision for operation of the program for a "three-year" rather than a "two-year" period.

Subsec. (b). Pub. L. 93–150, § 6(b), authorized appropriation of $40,000,000 for fiscal year ending June 30, 1975, and provided that in the event such sum was not appropriated by August 1, 1974, the Secretary was to use $40,000,000, or, if any amount had been appropriated, the difference, if any, between the amount directly appropriated and $40,000,000, out of funds appropriated by section 612c of Title 7.

Subsec. (e). Pub. L. 93–150, § 6(c), extended dates for submission of preliminary and final evaluation reports from Oct. 1, 1973, to Oct. 1, 1974, and from Mar. 30, 1974, to Mar. 30, 1975, respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 14 of Pub. L. 94–105 provided in part that the amendment by Pub. L. 94–105 is effective beginning with the fiscal year ending June 30, 1976.

§ 1787. Cash grants for nutrition education; authorization of appropriations.

(a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed $1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to

the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information. (Pub. L. 89–642, § 18, as added Pub. L. 94–105, § 23, Oct. 7, 1975, 89 Stat. 528.)

Chapter 15B.—AIR POLLUTION CONTROL

SUBCHAPTER I.—AIR POLLUTION PREVENTION AND CONTROL

Sec.
1857c–10. Authority to deal with energy shortage [New].
(a) Definitions.
(b) Temporary suspension of stationary source fuel or emission limitations.
(c) Extension of compliance dates.
(d) Coal conversion and allocation orders of Federal Energy Administrator; emission limitations for coal; modification of limitations; compliance; public notice.
(e) Continuous emission reduction systems; manufacturing priorities; rules.
(f) State and local requirements.
(g) Unlawful acts.
(h) Emergency powers not affected.
(i) Postponement of cessation of operation of electric generating powerplants scheduled to be taken out of service.
(j) Exchange of fuels.
(k) Study; report to Congress; publication of summaries and findings of Administrator in Federal Register.

SUBCHAPTER II.—EMISSION STANDARDS FOR MOVING SOURCES

PART A.—MOTOR VEHICLE EMISSION AND FUEL STANDARDS
1857f–6f. Fuel economy improvement from new motor vehicles [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4905, 6211 of this title; title 15 sections 793, 798, 2080; title 16 section 1456; title 33 sections 1502, 1503; title 49 section 1604.

SUBCHAPTER I.—AIR POLLUTION PREVENTION AND CONTROL

§ 1857. Congressional findings; purposes of subchapter.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provided for the prevention, control, and abatement of environmental pollution at federal facilities.

§ 1857b. Research, investigations, training, and other activities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

§ 1857b–1. Research relating to fuels and vehicles.

* * * * *

(c) Authorization of appropriations.

For the purposes of this section there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975. Amounts appropriated pursuant to this subsection shall remain available until expended. (As amended Apr. 9, 1973, Pub. L. 93–15, § 1(a), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, § 13(a), 88 Stat. 265.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–319 authorized appropriation of $150,000,000 for the fiscal year ending June 30, 1975.

1973—Subsec. (c). Pub. L. 93–15 authorized appropriation of $150,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857*l*, 6274 of this title.

§ 1857c–5. State implementation plans for national primary and secondary ambient air quality standards.

(a) Submission to Administrator; time for submission; State procedures; required contents of plans for approval by Administrator; approval of revised plan by Administrator.

* * * * *

(3)(A) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

(B) As soon as practicable, the Administrator shall, consistent with the purposes of this chapter and the Energy Supply and Environmental Coordination Act of 1974, review each State's applicable implementation plans and report to the State on whether such plans can be revised in relation to fuel burning stationary sources (or persons supplying fuel to such sources) without interfering with the attainment and maintenance of any national ambiet air quality standard within the period permitted in this section. If the Administrator determines that any such plan can be revised, he shall notify the State that a plan revision may be submitted by the State. Any plan revision which is submitted by the State shall, after public notice and opportunity for public hearing, be approved by the Administrator if the revision relates only to fuel burning stationary sources (or persons supplying fuel to such sources), and the plan as revised complies with paragraph (2) of this subsection. The Administrator shall approve or disaprove any revision no later than three months after its submission.

* * * * *

(c) Preconditions for preparation and publication by Administrator of proposed regulations setting forth an implementation plan; hearings for proposed regulations; promulgation of regulations by Administrator; transportation regulations study and report; parking surcharge; suspension authority.

(1) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

(A) the State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

(B) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

(C) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H) of this section.

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than three months after June 22, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient aid quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Federal Energy Administrator, and the Chairman of the Council on Environmental Quality.

(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon June 22, 1974. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

(D) For purposes of this paragraph—

(i) The term "parking surcharge regulation" means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

(ii) The term "management of parking supply" shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(iii) The term "preferential bus/carpool lane" shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses or carpools, or both.

(E) No standard, plan, or requirement, relating to management of parking supply or preferential bus/carpool lanes shall be promulgated after June 22, 1974, by the Administrator pursuant to this section, unless such promulgation has been subjected to at least one public hearing which has been held in the area affected and for which reasonable notice has been given in such area. If substantial changes are made following public hearings, one or more additional hearings shall be held in such area after such notice.

* * * * *

(As amended June 22, 1974, Pub. L. 93–319, § 4, 88 Stat. 256.)

REFERENCES IN TEXT

The Energy Supply and Environmental Coordination Act of 1974, refered to in subsec. (a)(3)(B), is Pub. L. 93–319, which enacted sections 1857c–10 and 1857f–6f of this title and section 791 et seq. of Title 15, Commerce and Trade, and amended this section and sections 1857b–1, 1857c–8, 1857c–9, 1857d–1, 1857f–1, 1857f–6e, 1857h–5, and 1857l of this title.

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–319, § 4(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c). Pub. L. 93–319, § 4(b), designated existing provisions as par. (1) and existing pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of such redesignated par. (1), and added par. (2).

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c, 1857c–2, 1857c–6, 1857c–9, 1857c–10, 1857f–6c, 1857h–5, 6211 of this title.

§ 1857c–6. Standards of performance for new stationary sources.

* * * * *

(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentiation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States.

(1)(A) * * *

* * * * *

(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall publish proposed regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publications, such standards with such modifications as he deems appropriate. The Administrator may, from time to time, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 302(f), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (b)(1)(B). Pub. L. 92–157 substituted in first sentence "publish proposed" for "propose".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c–5, 1857c–7 to 1857c–10, 1857d, 1857d–1, 1857e, 1857f, 1857h–5, 1857h–6 of this title.

§ 1857c–7. National emission standards for hazardous air pollutants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c–10 of this title.

§ 1857c–8. Federal enforcement procedures.

(a) Determination of violation of applicable implementation plan or standard; notification of violator; issuance of compliance order or initiation of civil action upon failure to correct; effect of compliance order; contents of compliance order.

* * * * *

(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 1857c–6(e) of this title (relating to new source performance standards), section 1857c–7(c) of this title (relating to standards for hazardous emissions), or section 1857c–10(g) of this title (relating to energy-related authorities) is in violation of any requirement of section 1857c–9 of this title (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b) of this section.

* * * * *

(b) Civil action for appropriate relief; jurisdiction; venue; notice to appropriate State agency.

The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

* * * * *

(2) violates any requirement of an applicable implementation plan (A) during any period of Federally assumed enforcement, or (B) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such requirement; or

(3) violates section 1857c–6(e), 1857c–7(c), or 1857c–10(g) of this title; or

* * * * *

(c) Penalties.

(1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or

* * * * *

(C) violates section 1857c–6(e), section 1857c–7(c), or section 1857c–10(g) of this title,

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 302(b), (c), 85 Stat. 464; June 22, 1974, Pub. L. 93–319, § 6(a)(1)–(3), 88 Stat. 259.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–319, §6(a)(1), inserted reference to section 1857c–10(g) of this title (relating to energy-related authorities).

Subsec. (b)(3). Pub. L. 93–319, §6(a)(2), inserted reference to section 1857c–10(g) of this title.

Subsec. (c)(1)(C). Pub. L. 93–319, § 6(a)(3), inserted reference to section 1857c–10(g) of this title.

1971—Subsec. (b)(2). Pub. L. 92–157, § 302(b), inserted "(A)" preceding "during" and ", or (B)" following "assumed enforcement".

Subsec. (c)(1)(A). Pub. L. 92–157, § 302(c), inserted "(i)" preceding "during" and ", or (ii)" following "assumed enforcement".

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c–6, 1857c–10, 1857h–2, 1857h–4 of this title.

§ 1857c–9. Recordkeeping, inspections, monitoring, and entry.

(a) Authority of Administrator or authorized representative.

For the purpose (i) of developing or assisting in the development of any implementation plan under section 1857c–5 or section 1857c–6(d) of this title any standard of performance under section 1857c–6 of this title, or any emission standard under section 1857c–7 of this title, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 1857c–10 or 1857h–1 of this title—

* * * * *

(As amended June 22, 1974, Pub. L. 93–319, § 6(a)(4), 88 Stat. 259.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-319 inserted reference to section 1857c-10 of this title.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857c-8 of this title.

§ 1857c-10. Authority to deal with energy shortage.

(a) Definitions.

For purposes of this section:

(1) The term "stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under this chapter (other than this section, or section 1857c-6(b), 1857c-7, or 1857h-1 of this title) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 1857c-5(a)(2)(F)(v) of this title), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

(2) The term "air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this chapter (except for any requirement prescribed under subsection (c) or (d) of this section, section 1857c-5(a)(2)(F)(v) of this title, or section 1857h-1 of this title), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

(3) The terms "stationary source" and "source" have the same meaning as the term "stationary source" has under section 1857c-6(a)(3) of this title; except that such terms include any owner or operator (as defined in section 1857c-6(a)(5) of this title) of such source.

(4) The term "coal" includes coal derivatives.

(5) The term "primary standard condition" means a limitation, requirement, or other measure, prescribed by the Administrator under subsection (d)(2)(A) of this section.

(6) The term "regional limitation" means the requirement of subsection (c)(2)(D) of this section.

(b) Temporary suspension of stationary source fuel or emission limitations.

(1)(A) The Administrator may, for any period beginning on or after June 22, 1974, and ending on or before June 30, 1975, temporarily suspend any stationary source fuel or emission limitation as it applies to any person—

(i) if the Administrator finds that such person will be unable to comply with any such limitation during such period solely because of unavailability of types or amounts of fuels (unless such unavailability results from an order under section 792(a) of Title 15, or

(ii) if such person is a source which is described in subsection (c)(1)(A) or (B) of this section and which has converted to coal, and the Administrator finds that the source will be able to comply during the period of the suspension with all primary standard conditions which will be applicable to such source.

Any suspension under this paragraph, the imposition of any interim requirement on which such suspension is conditioned under paragraph (3) of this subsection, and the imposition of any primary standard condition which relates to such suspension, shall be exempted from any procedural requirements set forth in this chapter or in any other provision of Federal, State, or local law; except as provided in subparagraph (B) of this paragraph.

(B) The Administrator shall give notice to the public and afford interested persons an opportunity for written and oral presentations of data, views, and arguments prior to issuing a suspension under subparagraph (A), or denying an application for such a suspension, unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before issuing such a suspension, he shall give actual notice to the Governor of the State in which the affected source or sources are located, and to appropriate local governmental officials (as determined by the Administrator). The issuing or denial of such a suspension, the imposition of an interim requirement, and the imposition of any primary standard condition shall be subject to judicial review only on the grounds specified in paragraph (2)(B), (2)(C), or (2)(D), of section 706 of Title 5 and shall not be subject to any proceeding under section 1857h-2(a)(2) or 1857h-5(b) and (c) of this title.

(2) In issuing any suspension under paragraph (1), the Administrator is authorized to act on his own motion or upon application by any person (including a public officer or public agency).

(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the persons receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) in the case of a suspension under paragraph (1)(A)(i), requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available (as determined by the Administrator) to such person.

(c) Extension of compliance dates.

(1) Except as provided in paragraph (2) of this subsection, the Administrator shall issue a compli-

ance date extension to any fuel-burning stationary source—

(A) which is prohibited from using petroleum products or natural gas by reason of an order which is in effect under section 792 (a) and (b) of Title 15, or

(B) which the Administrator determines began conversion to the use of coal as its primary energy source during the period beginning on September 15, 1973, and ending on March 15, 1974,

and which, on or after September 15, 1973, converts to the use of coal as its primary energy source. If a compliance date extension is issued to a source, such source shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as provided in subsection (d)(3) of this section. For purposes of this paragraph, the term "began conversion" means action by the source during the period beginning on September 15, 1973, and ending on March 15, 1974 (such as entering into a contract binding on such source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable such source to burn coal) which the Administrator finds evidences a decision (made prior to March 15, 1974) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

(2)(A) A compliance date extension under paragraph (1) of this subsection may be issued to a source only if—

(i) the Administrator finds that such source will not be able to burn coal which is available to such source in compliance with all applicable air pollution requirements without a compliance date extension,

(ii) the Administrator finds that the source will be able during the period of the compliance date extension to comply with all the primary standard conditions which are required under subsection (d)(2) of this section to be applicable to such source, and with the regional limitation if applicable to such source, and

(iii) the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved.

A plan submitted under clause (iii) of the preceding sentence shall be approved only if it meets the requirements of regulations prescribed under subparagraph (B). The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

(B) Not later than 90 days after June 22, 1974, the Administrator shall prescribe regulations requiring that any source to which a compliance date extension applies submit and obtain approval of its means for and schedule of compliance with the requirements of subparagraph (C) of this paragraph. Such regulations shall include requirements that such schedules shall include dates by which any such source must—

(i) enter into contracts (or other obligations enforceable against such source) which the Administrator has approved as being adequate to provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

(ii) if coal which enables such source to achieve such emission reduction is not available to such source, enter into contracts (or other obligations enforceable against such source) which the Administrator has approved as being adequate to provide for obtaining (I) a long-term supply of other coal, and (II) continuous emission reduction systems necessary to permit such source to burn such coal, and to achieve the degree of emission reduction required by subparagraph (C).

Regulations under this subparagraph shall provide that contracts or other obligations required to be approved under this subparagraph must be approved before they are entered into (except that a contract or obligation which was entered into before June 22, 1974, may be approved after such date).

(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal (under subparagraph (B) of this paragraph) of the means for and schedule of compliance (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than December 31, 1978; except that, in the case of a source for which a continuous emission reduction system is required for sulfur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable, including requirements described in subparagraphs (A) and (B) of subsection (b)(3) and requirements to file progress reports.

(D) A source which is issued a compliance date extension under this subsection, and which is located in an air quality control region in which a national primary ambient air quality standard for an air pollutant is not being met, may not emit such pollutant in amounts which exceed any emission limitation (and may not violate any other requirement) which applies to such source, under the applicable implementation plan for such pollutant. For purposes of this subparagraph, applicability of any such limitation or requirement to a source shall be determined without regard to this subsection or subsection (b) of this section.

(3) A source to which this subsection applies may, upon the expiration of a compliance date extension, receive a one-year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 1857c–5(f) of this title.

(4) The Administrator shall give notice to the public and afford an opportunity for oral and written presentations of data, views, and arguments before issuing any compliance date extension, prescribing any regulation under paragraph (2) of this sub-

section, making any finding under paragraph (2)(A) of this subsection, imposing any requirement on a source pursuant to paragraph (2) or any regulation thereunder, prescribing a primary standard condition under subsection (d)(2) of this section which applies to a source to which an extension is issued under this subsection, or acting on any petition under subsection (d)(2)(C) of this section.

(d) Coal conversion and allocation orders of Federal Energy Administrator; emission limitations for coal; modification of limitations; compliance; public notice.

(1)(A) Whenever the Federal Energy Administrator issues an order under section 792(a) of Title 15 which will not apply after June 30, 1975, the Administrator of the Environmental Protection Agency shall certify to him—

(i) in the case of a source to which no suspension will be issued under subsection (b) of this section, the earliest date on which such source will be able to burn coal and to comply with all applicable air pollution requirements, or

(ii) in the case of a source to which a suspension will be issued under subsection (b) of this section, the date determined under paragraph (2)(B) of this subsection.

(B) Whenever the Federal Energy Administrator issues an order under section 792(a) of Title 15 which will apply after June 30, 1975, the Administrator of the Environmental Protection Agency shall notify him if such source will be able, on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under subsection (c) of this section. If such notification is not given—

(i) in the case of a source which is eligible for a compliance date extension under subsection (c) of this section, the Administrator of the Environmental Protection Agency shall certify to the Federal Energy Administrator the date determined under paragraph (2)(B) of this subsection, and

(ii) in the case of a source which is not eligible for such an extension, the Administrator of the Environmental Protection Agency shall certify to the Federal Energy Administrator the earliest date on which the source will be able to burn coal and to comply with all applicable air pollution requirements.

(2)(A) The Administrator of the Environmental Protection Agency, after consultation with appropriate States, shall prescribe (and may from time to time, after such consultation, modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions, for each source to which a suspension under subsection (b)(1)(A)(ii) of this section will apply, and for each source to which a compliance date extension under subsection (c)(1) of this section will apply. Such limitations, requirements, and measures shall be those which he determines must be complied with by the source in order to assure (throughout the period that the suspension or extension will be in effect) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

(B) Whenever the Administrator prescribes a limitation, requirement, or measure under subparagraph (A) of this paragraph with respect to a source, he shall determine the earliest date on which such source will be able to comply with such limitation, requirement, or measure, and with any regional limitation applicable to such source.

(C) An air pollution control agency may petition the Administrator (A) to modify any limitation, requirement, or other measure under this paragraph so as to assure compliance with the requirements of this paragraph, or (B) to issue to the Federal Energy Administration the certification described in paragraph (3)(B) on the grounds described in clause (iii) thereof. The Administrator shall take the action requested in the petition, or deny the petition, within 90 days after the date of receipt of the petition.

(3)(A) If the Administrator determines that a source to which a suspension under subsection (b)(1)(A)(ii) of this section or to which a compliance date extension under subsection (c)(1) of this section applies is not in compliance with any primary standard condition, or that a source to which a compliance date extension applies is not in compliance with a regional limitation applicable to it, he shall (except as provided in subparagraph (B)) either—

(i) enforce compliance with such condition or limitation under section 1857c–8 of this title, or

(ii) (after notice to the public and affording an opportunity for interested persons to present data, views, and arguments, including oral presentations, to the extent practicable) revoke such suspension or compliance date extension.

(B) If the Administrator finds that for any period—

(i) a source, to which an order under section 792(a) of Title 15 applies, will be unable to comply with a primary standard condition or regional limitation,

(ii) such a source will not be in compliance with such a condition or limitation, but such condition or limitation cannot be enforced because of a court order restraining its enforcement, or

(iii) the burning of coal by such a source will result in an increase in emissions of any air pollutant for which national ambient air quality standards have not been promulgated (or an air pollutant which is transformed in the atmosphere into an air pollutant for which such a standard has not been promulgated), and that such increase may cause (or materially contribute to) a significant risk to public health,

he shall notify the Federal Energy Administrator of his finding and certify the period for which such order under such section 792(a) of Title 15 shall not be in effect with respect to such source. Subject to the conditions of the preceding sentence, such certification may be modified from time to time. For purposes of this subsection, subsection (c) of this section, and section 792(a) or (b) of Title 15, a source shall be considered unable to comply with an air pollution requirement (including a primary standard condition or regional limitation) only if

necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time.

(4) Nothing in this chapter shall prohibit a State, political subdivision of a State, or agency or instrumentality of either, from enforcing any primary standard condition or regional limitation.

(5) A conversion to coal (A) to which a suspension under subsection (b) of this section or a compliance date extension under subsection (c) of this section applies or (B) by reason of an order under section 792(a) of Title 15 shall not be deemed to be a modification for purposes of section 1857c–6(a)(2) and (4) of this title.

(e) Continuous emission reduction systems; manufacturing priorities; rules.

The Administrator may, by rule, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out subsection (c) of this section shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to sources in air quality control regions in which national primary ambient air quality standards have not been achieved. No rule under this subsection may impair the obligation of any contract entered into before June 22, 1974. To the extent necessary to carry out this section, the Administrator may prohibit any State or political subdivision of a State, or an agency or instrumentality of either, from requiring any person to use a continuous emission reduction system for which priorities have been established under this subsection, except in accordance with such priorities.

(f) State and local requirements.

No State, political subdivision of a State, or agency or instrumentality of either, may require any person to whom a suspension has been issued under subsection (b)(1) of this section to use any fuel the unavailability of which is the basis of such person's suspension (except that this subsection shall not apply to requirements identical to Federal requirements under subsection (b)(3) or subsection (d)(2)) of this section.

(g) Unlawful acts.

(1) It shall be unlawful for any person to whom a suspension has been issued under subsection (b)(1) of this section to violate any requirement on which the suspension is conditioned pursuant to subsection (b)(3) of this section or any primary standard condition applicable to him.

(2) It shall be unlawful for any person to fail to comply with any requirement under subsection (c) of this section, or any regulation, plan, or schedule thereunder (including a primary standard condition or regional limitation), which is applicable to such person.

(3) It shall be unlawful for any person to violate any rule under subsection (e) of this section.

(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3) of this section.

(h) Emergency powers not affected.

Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 1857h–1 of this title.

(i) Postponement of cessation of operation of electric generating powerplants scheduled to be taken out of service.

(1) In order to reduce the likelihood of early phaseout of existing electric generating powerplants, any electric generating powerplant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on January 1, 1974) of the owner or operator of such plant, (B) for which a certification to that effect has been filed by the owner or operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which such Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

(2) Prior to the date on which any powerplant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such plant may apply (with the concurrence of the Governor of the State in which such plant is located) to the Administrator to postpone the applicability of such requirement to such plant for not more than one year. If the Administrator determines, after considering the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for the costs of such compliance, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

(j) Exchange of fuels.

(1) The Administrator may, after public notice and opportunity for presentation of data, views, and arguments in accordance with section 553 of Title 5 and after consultation with the Federal Energy Administrator, designate persons with respect to whom fuel exchange requirements should be imposed under paragraph (2) of this subsection. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (b) of this section or conversion to coal to which subsection (c) of this section applies or of any allocation under section 792(d) of Title 15 or under the Emergency Petroleum Allocation Act of 1973.

(2) The Federal Energy Administrator shall exercise his authority under section 792(d) of Title

15 and under the Emergency Petroleum Allocation Act of 1973 with respect to persons designated by the Administrator of the Environmental Protection Agency under paragraph (1) in order to require the exchange of any fuel subject to allocation under the Energy Supply and Environmental Coordination Act of 1974 and the Emergency Petroleum Allocation Act of 1973 effective no later than forty-five days after the date of such designation, unless the Federal Energy Administrator determines, after consultation with the Administrator of the Environmental Protection Agency, that the costs or consumption of fuel, resulting from requiring such exchange, will be excessive.

(k) Study; report to Congress; publication of summaries and findings of Administrator in Federal Register.

(1) The Administrator shall study, and report to Congress not later than six months after June 22, 1974, with respect to—

(A) the present and projected impact of fuel shortages and fuel allocation programs on the program under this chapter;

(B) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

(C) the number of sources and locations which must use such technology based on projected fuel availability data;

(D) a priority schedule for installation of continuous emission reduction technology, based on public health or air quality;

(E) evaluation of availability of technology to burn municipal solid waste in electric powerplants or other major fuel burning installations, including time schedules, priorities, analysis of pollutants which may be emitted (including those for which national ambient air quality standards have not been promulgated), and a comparison of health benefits and detriments from burning solid waste and of economic costs;

(F) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time for attainment prescribed in this chapter, including associated considerations of cost, time for attainment, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

(G) proposed priorities, for continuous emission reduction systems which do not produce solid waste, for sources which are least able to handle solid waste byproducts of such systems;

(H) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentrations of sulfur dioxide in the ambient air; and

(I) steps taken pursuant to authority of section 1857c–5(a)(3)(B) of this title.

(2) Beginning January 1, 1975, the Administrator shall publish in the Federal Register, at no less than one-hundred-and-eighty-day intervals, the following:

(A) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (c) of this section applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsection.

(B) Up-to-date findings on the impact of this section upon—

(i) applicable implementation plans, and

(ii) ambient air quality.

(July 14, 1955, c. 360, title I, § 119, as added June 22, 1974, Pub. L. 93–319, § 3, 88 Stat. 248.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (j)(1) and (2), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, which is classified to section 751 et seq. of Title 15, Commerce and Trade.

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (j)(2), is Pub. L. 93–319, which enacted this section, section 1857f–6f of this title, and section 791 et seq. of Title 15, Commerce and Trade, and amended sections 1857b–1, 1857c–5, 1857c–8, 1857c–9, 1857d–1, 1857f–1, 1857f–6e, 1857h–5, and 1857l of this title.

CODIFICATION

Section 119 of the Clean Air Act [this section] has, for purposes of codification, been given the designation 1857c–10 of this title and has been inserted between sections 114 and 115 of the Clean Air Act [sections 1857c–9 and 1857d of this title] rather than at the end of this subchapter following section 118 of the Clean Air Act [section 1857f of this title].

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

DEFINITION OF PETROLEUM PRODUCT

The term "petroleum product" as used in this section to mean crude oil, residual fuel oil, or any refined petroleum product as defined in section 752(5) of Title 15, Commerce and Trade, see section 798(b) of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c–8, 1857c–9, 1857d–1, 1857h–5 of this title, title 15 sections 792, 793, 798.

§ 1857d–1. Retention of State authority.

Except as otherwise provided in sections 1857c–10(c), (e), and (f), 1857f–6a, 1857f–6c(c)(4) and 1858f–11 of this title (preempting certain State regulation of moving sources) nothing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 1857c–6 or section 1857c–7 of this title, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such

plan or section. (As amended June 22, 1974, Pub. L. 93–319, § 6(b), 88 Stat. 259.)

AMENDMENTS

1974—Pub. L. 93–319 inserted reference to section 1857c–10(c), (e), and (f).

FEDERAL ENERGY ADMINISTRATOR

"The Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

§ 1857e. Air Quality Advisory Board; advisory committees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II.—EMISSION STANDARDS FOR MOVING SOURCES

§ 1857f–1. Establishment of standards.

* * * * *

(b) Reduction requirements for model years 1975–1978; promulgation; report to Congress; suspension of standards; interim standards.

(1)(A) The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) of this section for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1978 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

* * * * *

(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

(B) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

(C) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) of this section and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

(D) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

* * * * *

(As amended June 22, 1974, Pub. L. 93–319, § 5, 88 Stat. 258.)

AMENDMENTS

1974—Subsec. (b)(1)(A). Pub. L. 93–319, § 5(a), substituted "model year 1977" for "model year 1975" in

provisions requiring a reduction of at least 90 per centum from the emissions allowable under standards for model year 1970 and added provisions covering regulations for model years 1975 and 1976.

Subsec. (b)(1)(B). Pub. L. 93–319, § 5(b), substituted "model year 1978" for "model year 1976" in the provisions requiring a reduction of at least 90 per centum from the average of emissions actually measured from vehicles manufactured during model year 1971 and added provisions covering regulations for model years 1975, 1976, and 1977.

Subsec. (b)(5). Pub. L. 93–319, § 5(c), (d), substituted in subpar. (A), "At any time after January 1, 1975" for "At any time after January 1, 1972", "with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977" for "with respect to such manufacturer" "sixty days" for "60 days", "paragraph (1)(A) of this subsection" for "paragraph (1)(A)", and "vehicles and engines manufactured during model year 1977" for "vehicles and engines manufactured during model year 1975", redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which had allowed manufacturers, at any time after Jan. 1, 1973, to file with the Administrator an application requesting a 1-year suspension of the effective date of any emission standard required by subsec. (b)(1)(B) with respect to such manufacturer.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857e, 1857f–2, 1857f–5, 1857f–5a, 1857f–6c, 1857f–6e, 1857f–7, 1857h–5, 1857h–6 of this title; title 15 sections 1410, 2002.

§ 1857f–5. Motor vehicle and motor vehicle engine compliance testing and certification.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f–1, 1857f–2, 1857f–5a, 1857f–7 of this title and in title 15 section 2003.

PART A.—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§ 1857f–6a. State standards.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857d–1, 1857f–6c, 1857f–7 of this title and in title 15 section 2002.

§ 1857f–6c. Regulation of fuels.

* * * * *

(c) Control or prohibition of offending fuels and fuel additives.

* * * * *

(3)(A) For the purpose of obtaining evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

* * * * *

(d) Penalty.

Any person who violates subsection (a) of this section or the regulation prescribed under subsection (c) of this section or who fails to furnish any information required by the Administrator under subsection (b) of this section shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications. (As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 302(d), (e), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (c)(3)(A). Pub. L. 92–157, § 302(d), substituted "purpose of obtaining" for "purpose of."

Subsec. (d). Pub. L. 92–157, § 302(e), substituted "subsection (b)" for "subsection (c)" where appearing the second time.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857d–1, 1857h–5 of this title.

§ 1857f–6e. Low-emission vehicles.

* * * * *

(i) Authorization of appropriations.

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the four succeeding fiscal years.

* * * * *

(As amended Apr. 9, 1973, Pub. L. 93–15, § 1(b), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, § 13(b), 88 Stat. 265.)

AMENDMENTS

1974—Subsec. (i). Pub. L. 93–319 substituted "four" for "three" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1975.

1973—Subsec. (i). Pub. L. 93–15 substituted "three" for "two" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857*l*, 6274 of this title.

§ 1857f–6f. Fuel economy improvement from new motor vehicles.

(a)(1) [1] The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within one hundred and twenty days following June 22, 1974, concerning the practicability of establishing a fuel economy improvement standard of 20 per centum for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of

[1] Section enacted without a subsec. (b).

enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Federal Energy Administrator, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to such committees of the Congress, but such Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 1857h-5(a) of this title to obtain necessary information.

(2) For the purpose of this section, the term "fuel economy improvement standard" means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for such manufacturer in accordance with test procedures established by the Administrator pursuant to this chapter. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means. (July 14, 1955, ch. 360, title II, § 213, as added June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261.)

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

§ 1857f-7. Definitions.

Section 213 of act July 14, 1955, ch. 360, title II, was renumbered section 214 by Pub. L. 93-319, § 10, June 22, 1974, 88 Stat. 261.

§ 1857f-9. Establishment of standards.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-10, 1857h-5 of this title; title 49 section 1421.

SUBCHAPTER III.—GENERAL PROVISIONS

§ 1857h-1. Emergency powers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-9, 1857c-10 of this title.

§ 1857h-2. Citizen suits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c-10 of this title.

§ 1857h-4. Federal procurement.

EXECUTIVE ORDER NO. 11602

Ex. Ord. No. 11602, June 29, 1971, 36 F.R. 12475, formerly set out as a note under this section, which related to the administration of the Clean Air Act with respect to Federal contracts, grants, or loans, was superseded by Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note under this section.

EX. ORD. NO. 11738. ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, provided:

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as "the Air Act") and the Federal Water Pollution Control Act (hereinafter referred to as "the Water Act").

SEC. 2. *Designation of Facilities.* (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act or section 309(c) of the Water Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. *Contracts, Grants, or Loans.* (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. *Procurement, Grant, and Loan Regulations.* The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. *Rules and Regulations.* The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. *Cooperation and Assistance.* The head of each Federal agency shall take such steps as may be necessary

to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. *Enforcement.* The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. *Exemptions—Reports to Congress.* (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contratcors or direct recipients of Federal assistance by way of contacts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971, and section 306 of the Air Act.

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971, is hereby superseded.

RICHARD NIXON.

§ 1857h–5. Administrative proceedings and judicial review.

(a) (1)[1] In connection with any determination under section 1857c–5(f) or section 1857f–1(b)(5) of this title, or for purposes of obtaining information under section 1857f–1(b)(4) or 1857f-6c(c)(3) of this title, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of Title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 1857f–1(c) of this title, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) (1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard under section 1857c–7 of this title, any standard of performance under section 1857c–6 of this title, any standard under section 1857f–1 of this title (other than a standard required to be prescribed under section 1857f–1(b)(1) of this title), any determination under section 1857f–1(b)(5) of this title, any control or prohibition under section 1857f–6c of this title or any standard under section 1857f–9 of this title may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 1857c–5 of this title or section 1857c–6(d) of this title, or his action under section 1857c–10(c)(2)(A), (B), or (C) of this title or under regulations thereunder, may be filed only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be filed within 30 days from the date of such promulgation, approval, or action, or after such date if such petition is based solely on grounds arising after such 30th day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92–157, title III, § 302(a), 85 Stat. 464; June 22, 1974, Pub. L. 93–319, § 6(c), 88 Stat. 259.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93–319 inserted reference to the Administrator's action under section 1857c–10(c)(2)(A), (B), or (C) of this title or under regulations thereunder and substituted reference to the filing of a petition within 30 days from the date of promulgation,

[1] So in original. Subsec. (a) was enacted without a par. (2).

approval, or action for reference to the filing of a petition within 30 days from the date of promulgation or approval.

1971—Subsec. (a)(1). Pub. L. 92–157 substituted reference to section "1857f–6c(c)(3)" for "1857f–6c(c)(4)" of this title.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93–275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798(a) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c–5, 1857c–10, 1857f–1, 1857f–6c, 1857f–6f of this title.

§ 1857j. Records and audit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4905 of this title.

§ 1857*l*. Appropriations.

There are authorized to be appropriated to carry out this chapter, other than sections 1857b(f)(3) and (d), 1857b–1, 1857f–6e, and 1858a of this title, $125,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for the fiscal year ending June 30, 1972, $300,000,000 for the fiscal year ending June 30, 1973, and $300,000,000 for the fiscal year ending June 30, 1974, and $300,000,000 for the fiscal year ending June 30, 1975. (As amended Apr. 9, 1973, Pub. L. 93–15, § 1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, § 13(c), 88 Stat. 265.)

AMENDMENTS

1974—Pub. L. 93–319 authorized appropriation of $300,000,000 for fiscal year ending June 30, 1975.

1973—Pub. L. 93–15 authorized appropriation of $300,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6274 of this title.

Chapter 16.—NATIONAL SCIENCE FOUNDATION

Sec.

1869a. Contracts or precollege science curriculum development activities; inspection of materials by parent or guardian [New].
1881a. Alan T. Waterman Award [New].
(a) Establishment; amount.
(b) Purpose.
(c) Number.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 section 1123.

§ 1861. Establishment; composition.

OFFICE OF SCIENCE AND TECHNOLOGY

The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished and all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1862. Functions.

(a) Initiation and support of studies and programs; scholarships; current register of scientific and technical personnel.

The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

* * * * *

(b) Contracts, grants, loans, etc., for scientific activities; financing of programs.

The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 1873(g) of this title, and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

* * * * *

(As amended Aug. 10, 1972, Pub. L. 92–372, § 8, 86 Stat. 528; Oct. 13, 1972, Pub. L. 92–484, § 10(b), 86 Stat. 802.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–372 added the support of science education programs at all levels to the functions of the Foundation and substituted "scientific and educational activities" for "scientific activities".

Subsec. (b). Pub. L. 92–484 added provisions authorizing the Foundation to initiate and support specific scientific activities in connection with matters relating to the effects of scientific applications upon society, and substituted provisions relating to the initiation or support pursuant to requests of activities by any other Federal department or agency, including the Office of Technology Assessment, for provisions relating to the initiation or support pursuant to requests of activities by the Secretary of State or Secretary of Defense.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Section 7 of Pub. L. 93–96, Aug. 16, 1973, 87 Stat. 316, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [Aug. 16, 1973] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends

shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [Aug. 16, 1973], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950 [this chapter]; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 [sections 1876 to 1879 of this title] relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

Similar provisions were in Pub. L. 92–86, § 7, Aug. 11, 1971, 85 Stat. 309; Pub. L. 92–372, § 7, Aug. 10, 1972, 86 Stat. 527.

§ 1864. Director of Foundation.

SCIENCE FOR CITIZENS PROGRAM; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94–86, §3, Aug. 9, 1975, 89 Stat. 429, provided that:

"The Director of the National Science Foundation is authorized and directed to prepare a comprehensive plan for the establishment and conduct of a 'Science for Citizens Program'. Such program shall be designed—

"(1) to improve public understanding of public policy issues involving science and technology;

"(2) to facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in public activities, including community and citizen group activities, aimed at the resolution of public policy issues having significant scientific and technical aspects;

"(3) to enable nonprofit citizens public interest groups to acquire necessary technical expertise to assist them in dealing with the scientific and technical aspects of public policy issues; and

"(4) to provide grants and contracts to academic and other nonprofit organizations for the conduct of applied research designed to improve the effectiveness of the programs conducted under paragraphs (1), (2), and (3) of this section.

The comprehensive plan provided for in this section shall be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate within six months from the date of enactment of this Act [Aug. 9, 1975]."

PARTICIPATION OF PUBLIC IN CONDUCT OF FOUNDATION PROGRAMS; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94–86, § 4, Aug. 9, 1975, 89 Stat. 430, provided that: "The Director of the National Science Foundation is authorized and directed to prepare a comprehensive plan to facilitate the participation of members of the public in the formulation, development, and conduct of the National Science Foundation's programs, policies, and priorities and to submit the resulting recommendations, plans, and other findings to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate within one hundred and twenty days from the date of enactment of this Act [Aug. 9, 1975]."

§ 1869a. Contracts for precollege science curriculum development activities; inspection of materials by parent or guardian.

After August 9, 1975, the Director of the National Science Foundation, shall require, as a condition of any award made by the National Science Foundation for the purpose of precollege science curriculum development activities, that the awardee, and any subcontractors involved in the distribution, marketing, or selling of such science curricula, shall include in any testing agreement, sales contract, or other comparable legal instrument a provision requiring that all instructional materials, including teacher's manuals, films, tapes, or other supplementary instructional materials developed or provided under such award, subcontract, or other legal instrument, will be made available within the school district using such materials for inspection by parents or guardians of children engaged in educational programs or projects of that school district. In addition, the Director of the National Science Foundation shall take such action as may be necessary and feasible to modify awards made for the purpose of precollege science curriculum development and implementation activities on or before August 9, 1975, to include such a provision in all possible cases. (Pub. L. 94–86, § 2(b), Aug. 9, 1975, 89 Stat. 428.)

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950, which comprises this chapter, but was enacted as part of the National Science Foundation Authorization Act, 1976.

§ 1881. Same; award; number; citizenship; ceremonies.

EX. ORD. NO. 11287. AWARD AND PRESENTATION OF NATIONAL MEDAL OF SCIENCE

Ex. Ord. No. 11287, June 28, 1966, 31 F.R. 8995, as amended by Ex. Ord. No. 11502, Dec. 22, 1969, 34 F.R. 20171; Ex. Ord. No. 11734, July 30, 1973, 38 F.R. 20433, provided:

By virtue of the authority vested in me by the Act of August 25, 1959, entitled "An Act To Establish a National Medal of Science To Provide Recognition for Individuals Who Make Outstanding Contributions in the Physical, Biological, Mathematical, and Engineering Sciences," 73 Stat. 431 (hereinafter referred to as the Act) [section 1880 of this title and this section], and as President of the United States, it is ordered as follows:

SECTION 1. AWARD OF MEDAL

(a) The President shall award the National Medal of Science (hereinafter referred to as the Medal) established by the Act, the specifications of which are prescribed by Executive Order No. 10910 of January 17, 1961, as amended, on the basis of recommendations received by him in accordance with the provisions of this Order to individuals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, or engineering sciences.

(b) The following-described criteria shall govern the award of the Medal—

(1) Not more than twenty individuals shall be awarded the Medal in any one calendar year.

(2) No individual shall be awarded the Medal unless, at the time such award is made, he:

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed a petition for naturalization in the manner prescribed by Section 334 (b) of the Immigration and Nationality Act [section 1445(b) of title 8, Aliens and Nationality], and (ii) is not permanently ineligible to become a citizen of the United States.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Medal may be awarded posthumously, but only to individuals who, at the time of their death, met the conditions set forth in paragraph (2). The Medal shall not be awarded to any individual after the fifth anniversary of the day of his death.

(c) Each Medal awarded shall be suitably inscribed. Each individual awarded the Medal shall also receive a citation descriptive of the award.

(d) The presentation of the Medal shall be made in accordance with Section 2(d) of the Act.

SEC. 2. THE PRESIDENT'S COMMITTEE

(a) There is hereby established the President's Committee on the National Medal of Science (hereinafter referred to as the Committee), which shall be composed of twelve appointive members and two ex officio members and shall assist the President, as provided in this order, in connection with the carrying out of the Act.

(b) Each appointive member of the Committee shall be appointed by the President from among appropriately qualified citizens of the United States. Except as otherwise provided in subsection (e) of this Section, each such member shall be so appointed for a term of three years or for the balance of the unexpired term of his predecessor, whichever is appropriate. Members may be reappointed to serve one additional term of three years. As nearly as practicable, the appointive members of the Committee shall comprise a cross section of the major fields of science and engineering.

(c) The following shall be ex officio members of the Committee:

(1) The Science Adviser.

(2) The President of the National Academy of Sciences.

(d) The President shall from time to time designate one of the members of the Committee as chairman thereof.

(e) Of the persons first designated as members of the Committee under the provisions of subsection (b) of this Section, four shall be designated to serve until December 31, 1966, four shall be designated to serve until December 31, 1967, and four shall be designated to serve until December 31, 1968.

SEC. 3. PRELIMINARY PROCEDURE

(a) The Committee shall receive, on behalf of the President, (1) the recommendations made by the National Academy of Sciences respecting the award of the Medal pursuant to the provisions of Section 2(a) of the Act [subsec. (a) of this section], and (2) such similar recommendations as may be made by any other nationally representative scientific or engineering organization or other qualified source. Each such recommendation shall include or be accompanied by such appropriate supporting material as the Committee may from time to time specify.

(b) On the basis of such criteria, information, and evidence as it may deem appropriate, and subject to the provisions of Section 1 of this Order, the Committee shall designate, from among the individuals who are recommended in accordance with Section 3(a) of this Order, those individuals whom the Committee recommends for the award of the Medal and shall transmit the names of those individuals to the President, together with its recommendations. In so transmitting its recommendations, the Committee (1) shall include expressions of its views concerning, and such other information as may be pertinent to, its recommendations, and (2) may arrange the names of all or some of the recommended individuals in a sequence deemed by it to indicate the order of precedence in which the individuals involved deserve to receive the Medal.

(c) Each recommendation respecting the award of the Medal to an individual which is transmitted to the President by the Committee shall be accompanied by a draft of a citation describing the contributions which are being recognized by the award.

SEC. 4. TIME OF AWARDS AND RECOMMENDATIONS

(a) Unless otherwise directed by the President, announcement of the award of the Medal shall be made during the last sixty days of each calendar year and ceremonies for presentation of the Medal shall be held during the first ninety days of the calendar year following the announcement of the award.

(b) Recommendations for awards of the Medals shall be submitted to the Committee, pursuant to Section 3(a) of this Order, by the first day of July of the year in which it is proposed that they be announced by the President. Recommendations of the Committee shall be delivered to the President by the fifteenth day of October of the year in which it is proposed that they be announced. Awards of the Medal may be based upon recommendations of the Committee or upon such other information and evidence as the President deems appropriate.

SEC. 5. SERVICES AND EXPENSES

(a) The National Science Foundation is authorized to provide such assistance as may be necessary and appropriate to carry out the purposes of this Order.

(b) The members of the Committee shall serve without compensation, but the National Science Foundation is authorized to reimburse them for travel expenses and to pay them per diem in lieu of subsistence as authorized for persons serving without compensation (5 U.S.C. 73b–2) [now covered by section 5703 of Title 5, Government Organization and Employees].

SEC. 6. PRIOR ORDERS

(a) Subject to the provisions of this Order, the President's Committee on the National Medal of Science established by Section 2 of this Order shall be deemed to constitute a continuation of the Committee of the same name established by Executive Order No. 10961 of August 21, 1961. The latter Order is hereby revoked.

(b) Executive Order No. 10910 of January 17, 1961, is hereby amended by deleting from its title the words "AND AWARD", and by deleting the last two sentences of Section 1, and all of Section 2, thereof.

LYNDON B. JOHNSON.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON THE NATIONAL MEDAL OF SCIENCE

Term of the President's Committee on the National Medal of Science extended until Jan. 5, 1977, unless otherwise sooner terminated, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of Title 5, Government Organization and Employees.

§ 1881a. Alan T. Waterman Award.

(a) Establishment; amount.

The National Science Foundation is authorized to establish the Alan T. Waterman Award for research or advanced study in the mathematical, physical, medical, biological, engineering, social, or other sciences. The award authorized by this section shall consist of a suitable medal and a grant not to exceed $50,000 per year for a period not to exceed three years to support further research or study by the recipient.

(b) Purpose.

Awards under this section shall be made to recognize and encourage the work of younger scientists whose capabilities and accomplishments show exceptional promise of significant future achievement.

(c) Number.

No more than one award shall be made under this section in any one fiscal year. (Pub. L. 94–86, § 6, Aug. 9, 1975, 89 Stat. 430.)

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950, which comprises this chapter, but was enacted as part of the National Science Foundation Authorization Act, 1976.

§ 1882. Information furnished to Congressional committees.

Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation. (Pub. L. 94–86, § 11, Aug. 9, 1975, 89 Stat. 431.)

REFERENCES IN TEXT

This or any other Act, referred to in text, means the National Science Foundation Authorization Act, 1976, Pub. L. 94–86, or any other Act.

CODIFICATION

Section was enacted as a part of the National Science Foundation Authorization Act, 1976, and not as a part of the National Science Foundation Act of 1950, which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 91–120, § 6, Nov. 18, 1969, 83 Stat. 203; Pub. L. 93–96, § 9, Aug. 16, 1973, 87 Stat. 317; Pub. L. 93–413, § 7, Sept. 4, 1974, 88 Stat. 1095.

Chapter 16A.—GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH

§ 1893. Repealed. Pub. L. 93–608, § 1(1), Jan. 2, 1975, 88 Stat. 1967.

Section, Pub. L. 85–934, § 3, Sept. 6, 1958, 72 Stat. 1793, required a report to the appropriate committees of Congress by agencies or departments making grants for basic scientific research under this chapter.

Chapter 19.—SALINE AND SALT WATERS

Sec.

1959. Congressional findings and policy on conversion of saline water [New].
1959a. Duties of Secretary of Interior [New].
(a) Research and studies of development of processes and equipment for converting saline water.
(b) Publication of findings from research and studies for application to other than water treatment matters.
(c) Engineering and technical work for development of desalting processes and plant design concepts for scaled demonstrations.
(d) Methods for recovery and marketing of byproducts as offsets against treatment costs; reduction of impact on environment from discharge of brine into waters.
(e) Economic studies and surveys on water production costs; information concerning relation of desalting to other aspects of comprehensive water resource planning: coordination of studies and water resources planning.
1959b. Additional duties of Secretary of Interior [New].
(a) Prototype plants; preliminary investigations.
(b) Report to Congress; recommendations respecting construction of large-scale prototype desalting plant; criteria.
(c) Federal agencies; assistance.
(d) State and other public agencies; assistance.
1959c. Powers of Secretary of Interior [New].
1959d. Saline water conversion program and other Federal programs [New].
(a) Coordination or joint conduct of activities with Department of Defense.
(b) Cooperation with Environmental Protection Agency.
(c) Cooperation with other Federal agencies.
(d) Research information and developments: availability to public; patent rights; rules and revisions of rules: publication in Federal Register.
(e) Disposal of water and byproducts; disposition of moneys.
(f) Alteration of existing water ownership and control law.
1959e. Rules and regulations [New].
1959f. Report to President and Congress [New].
1959g. Definitions [New].
1959h. Authorization of appropriations [New].
(a) Availability of moneys for various expenses; increases and decreases in expenditures and obligations.
(b) Annual appropriation authorization; availability of moneys for execution of provisions, for grants, contracts, cooperative agreements, and studies, and for correlation of results of studies and research.
(c) Foreign research; availability of funds.

§§ 1951 to 1958. Repealed. Pub. L. 92–60, § 11, July 29, 1971, 85 Stat. 163.

Section 1951, acts July 3, 1952, ch. 568, § 1, 66 Stat. 328; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 628, stated Congressional policy on conversion of sea and saline waters and defined "saline water" and "United States", now covered by sections 1959 and 1959g(b) and (d) of this title.

Section 1952, acts July 3, 1952, ch. 568, § 2, 66 Stat. 328; June 29, 1955, ch. 227, § 1(1), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 628; Aug. 11, 1965, Pub. L. 89–118, § 1(1), 79 Stat. 509; June 24, 1967, Pub. L. 90–30, § 1(b)–(d), 81 Stat. 78, prescribed duties of Secretary of Interior relating to (a) research and studies for development of processes and methods for converting saline water; (b) research and technical development work for developing processes and plant designs; reports to Congress; and treatment of demonstration projects as test beds; (c) recommendations to Congress for prototype plant; (d) methods for recovery and marketing of byproducts; and (e) economic studies and surveys on water production costs, now covered by sections 1959a and 1959b(b) of this title.

Section 1953, acts July 3, 1952, ch. 568, § 3, 66 Stat. 329; June 29, 1955, ch. 227, § 1(2), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 628, provided for powers of Secretary of Interior, now covered by section 1959c of this title.

Section 1954, acts July 3, 1952, ch. 568, § 4, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629, provided for coordination or joint conduct of activities with Department of Defense; cooperation with other Federal agencies; and availability to public of resulting information and developments, now covered by section 1959d of this title.

Section 1955, acts July 3, 1952, ch. 568, § 5, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629, related to disposal of water and byproducts, disposition of moneys and alteration of existing law, now covered by section 1959d(e) and (f) of this title.

Section 1956, acts July 3, 1952, ch. 568, § 6, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629, provided for reports to President and Congress, now covered by section 1959f of this title.

Section 1957, acts July 3, 1952, ch. 568, § 7, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629, authorized issuance of rules and regulations, now covered by section 1959e of this title.

Section 1958, acts July 3, 1952, ch. 568, § 8, 66 Stat. 329; June 29, 1955, ch. 227, § 1(3), 69 Stat. 198; Sept. 22, 1961,

Pub. L. 87–295, § 1, 75 Stat. 629; Aug. 11, 1965, Pub. L. 89–118, § 1(2), 79 Stat. 509; June 24, 1967, Pub. L. 90–30, § 1(a), 81 Stat. 78; Apr. 29, 1968, Pub. L. 90–297, § 1, 82 Stat. 110, authorized appropriations, now covered by section 1959h of this title.

§§ 1958a to 1958g. Omitted.

CODIFICATION

Sections, consisting of sections 1 to 7 of Pub. L. 85–883, Sept. 2, 1958, 72 Stat. 1706, as amended, popularly known as the "Saline Water Demonstration Act", provided for a program of constructing demonstration plants for the production, fom saline or brackish waters, of water suitable for agricultural, industrial, municipal, and other beneficial consumptive uses. Sections have been omitted as executed in view of section 4 of Pub. L. 85–883, as amended by Pub. L. 87–295, § 2, Sept. 22, 1961, 75 Stat. 630, classified to former section 1958d of this title, which provided that the authority for construction and operation of the demonstration plants terminated upon the expiration of twelve years after September 2, 1958. See section 1959 et seq. of this title.

§ 1959. Congressional findings and policy on conversion of saline water.

The Congress in consideration of the Federal responsibility for water resource conservation by means of comprehensive planning, planning and construction of water resource development projects, administration of the navigable waterways, and maintenance of water quality standards finds that the technology for the conversion of saline and other chemically contaminated waters is vital to all these areas of responsibility. It is the policy of the Congress, therefore, to provide for the development and demonstration of practicable means to convert saline and other chemically contaminated water to a quality suitable for municipal, industrial, agricultural, and other beneficial uses. (Pub. L. 92–60, § 2, July 29, 1971, 85 Stat. 159.)

SHORT TITLE

Section 1 of Pub. L. 92–60 provided: "That this Act [which enacted sections 1959 to 1959h and repealed sections 1951 to 1958 of this title] may be cited as 'The Saline Water Conversion Act of 1971'."

§ 1959a. Duties of Secretary of Interior.

The Secretary of the Interior is authorized and directed to—

(a) Research and studies for development of processes and equipment for converting saline water.

conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting saline and other chemically contaminated water into water suitable for beneficial consumptive uses;

(b) Publication of findings from research and studies for application to other than water treatment matters.

pursue the findings of research and studies authorized by this chapter having potential practical applications to matters other than water treatment to the stage that such findings can be published in an effective form for utilization by others;

(c) Engineering and technical work for development of desalting processes and plant design concepts for scaled demonstrations.

conduct engineering and technical work including the design, construction, and testing of pilot plants, test beds, and modules to develop desalting processes and plant design concepts to the point of demonstration on a practical scale;

(d) Methods for recovery and marketing of byproducts as offsets against treatment costs; reduction of impact on environment from discharge of brine into waters.

study methods for the recovery and marketing of byproducts resulting from the desalination of water to offset the costs of treatment and to reduce impact on the environment from the discharge of brines into lakes, streams, and other waters; and

(e) Economic studies and surveys on water production costs; information concerning relation of desalting to other aspects of comprehensive water resource planning: coordination of studies and water resource planning.

undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the saline water processes as compared with other standard methods, and by means of mathematical models or other methodologies prepare and maintain information concerning the relation of desalting to other aspects of State, regional, and national comprehensive water resource planning: *Provided*, That in carrying out this function, the Secretary shall coordinate these studies with planning being performed under the provisions of the Water Resources Planning Act, as amended.

(Pub. L. 92–60, § 3, July 29, 1971, 85 Stat. 159.)

REFERENCES IN TEXT

The Water Resources Planning Act, as amended, referred to in subsec. (e), is classified to chapter 19B (section 1962 et seq.) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

§ 1959b. Additional duties of Secretary of Interior.

(a) Prototype plants; preliminary investigations.

The Secretary is authorized and directed to conduct preliminary investigations and to explore potential cooperative agreements with non-Federal utilities and governmental entities in order to develop recommendations for Federal participation in the construction, operation, and maintenance of prototype plants utilizing desalting technologies for the production of water for consumptive use.

(b) Report to Congress; recommendations respecting construction of large-scale prototype desalting plant; criteria.

The Secretary is authorized and directed to report to the President and to the Congress, not later than one year after July 29, 1971, his recommendation as to the best opportunity for the early construction of a large-scale prototype desalting plant. In making his recommendation, the Secretary shall consider the following—

(i) plant size and process type best suited, within the presently available technology, to demonstrate the practicability of construction and operation of a large-scale plant for water supply on a reliable basis, and to provide information on the management problems and economics of such operation;

(ii) availability of operating entities or utilities willing to enter, and capable of entering, into

agreements and contracts to provide a market for water and an operating agency for the plants;

(iii) availability of entities or utilities willing to enter, and capable of entering, into agreements and contracts to provide an energy source for the plants;

(iv) availability of a site, the environmental implications of the energy source, and brine disposal problems; and

(v) need for the development of new water sources in the area.

(c) Federal agencies; assistance.

In carrying out the provisions of this section, the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior or of other Federal agencies to insure that the recommended prototype plant and the supporting agreements are fully integrated and compatible with the water and power systems of the region.

(d) State and other public agencies; assistance.

The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to saline water conversion problems and facilities and to enter into contracts with respect to such assistance. (Pub. L. 92–60, § 4, July 29, 1971, 85 Stat. 160.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

§ 1959c. Powers of Secretary of Interior.

In carrying out his functions under this chapter, the Secretary may—

(a) make grants to educational institutions and scientific organizations, and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) establish and operate necessary facilities and test sites to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of this chapter;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue bibliographical data with respect thereto;

(g) cause on-site inspections to be made of promising projects, domestic and foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the purposes of this chapter will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to saline water conversion;

(i) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies and instrumentalities, and with interested persons, firms, institutions, and organizations.

(Pub. L. 92–60, § 5, July 29, 1971, 85 Stat. 160.)

§ 1959d. Saline water conversion program and other Federal programs.

(a) Coordination or joint conduct of activities with Department of Defense.

Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Department of Defense to the end that developments under this chapter which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of this chapter and to strengthen the civil economy of the Nation.

(b) Cooperation with Environmental Protection Agency.

The Secretary will cooperate with the Administrator of the Environmental Protection Agency to insure that research and development work performed under this chapter makes the fullest possible contribution to the improvement of processes and techniques for the treatment of saline and other chemically contaminated waters and to avoid the duplication of the experience, expertise, and data regarding desalting technologies which have been acquired in the performance of the Saline Water Conversion Act.

(c) Cooperation with other Federal agencies.

The Secretary shall cooperate fully with the Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies in the interest of achieving the objectives of this chapter.

(d) Research information and developments: availability to public; patent rights; rules and revisions of rules: publication in Federal Register.

All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this chapter, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder. Within six months of July 29, 1971, the Secretary shall publish rules in the Federal Register to give effect to the provisions of this subsection and shall subsequently publish all revisions in the same manner.

(e) Disposal of water and byproducts; disposition of moneys.

The Secretary may dispose of water and byproducts resulting from his operations under this chapter. All moneys received from dispositions under this

section shall be paid into the Treasury as miscellaneous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of Reclamation Law (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) will govern.

(f) Alteration of existing water ownership and control law.

Nothing in this chapter shall be construed to alter existing law with respect to the ownership and control of water. (Pub. L. 92–60, § 6, July 29, 1971, 85 Stat. 161.)

REFERENCES IN TEXT

Saline Water Conversion Act, referred to in subsec. (b), is act July 3, 1952, ch. 568, 66 Stat. 328, as amended, formerly classified to section 1951 et seq. of this title and now covered by section 1959 et seq. of this title.

Reclamation Law (32 Stat. 388 and Acts amendatory thereof and supplementary thereto), referred to in subsec. (e), are classified generally to Title 43, Public Lands. See Tables Volume for distribution.

§ 1959e. Rules and regulations.

The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this chapter. (Pub. L. 92–60, § 7, July 29, 1971, 85 Stat. 162.)

§ 1959f. Report to the President and Congress.

The Secretary shall submit to the President and to the Congress not later than December 31, 1975, a report on—

(i) the status of research and development work in progress under the provisions of section 1959a (a), (b), (c), and (d) of this title, along with a program for the orderly termination of these activities in accordance with section 1959h(b) of this title; and

(ii) the status of work in progress under the provisions of section 1959a(e) and section 1959b of this title along with the recommendations for the integration of these remaining functions within the on-going water resource programs of the Department of the Interior.

(Pub. L. 92–60, § 8, July 29, 1971, 85 Stat. 162.)

§ 1959g. Definitions.

As used in this chapter—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "saline water" includes sea water, brackish water, mineralized ground or surface water, and irrigation return flows;

(c) the term "other chemically contaminated water" refers to waters which contain chemicals susceptible to removal by desalting processes;

(d) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, territories of American Samoa, Guam, and the Virgin Islands; and the provisions of this chapter shall also apply to the Trust Territory of the Pacific Islands;

(e) the term "pilot plant" means an experimental unit of small size, usually less than one hundred thousand gallons per day capacity, used for early evaluation and development of new or improved processes and to obtain technical and engineering data;

(f) the term "test bed" means an intermediate-sized, experimental desalting plant of up to two million gallons per day capacity used for further evaluation and refinement of processes in the field and designed to facilitate the incorporation of experimental features for performance testing and to permit process changes and improvements as required;

(g) the term "module" means a section or integral portion of a desalting plant which is used initially to study large-scale technology and critical design features in preparation for subsequent prototype construction;

(h) the term "prototype" means a full-size, first-of-a-kind production plant used for development, study, and demonstration of full-sized technology, plant operation, and process economics.

(Pub. L. 92–60, § 9, July 29, 1971, 85 Stat. 162.)

§ 1959h. Authorization of appropriations.

(a) Availability of moneys for various expenses; increases and decreases in expenditures and obligations.

There is authorized to be appropriated to carry out the provisons of this chapter during fiscal year 1972, the sum of $27,025,000, to remain available until expended, as follows:

(1) Research expense, not more than $5,475,000;

(2) Development expense, not more than $10,200,000;

(3) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test bers and test facilities, not more than $7,385,000;

(4) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, not more than $1,425,000; and

(5) Administration and coordination not more than $2,540,000.

Expenditures and obligations under paragraphs (1), (2), (3), and (4) of this subsection may be increased by not more than 10 per centum, and expenditures and obligations under paragraph (5) may be increased by not more than 2 per centum, if any such increase under any paragraph is accompanied by an equal decrease in expenditures and obligations under one or more of the other paragraphs.

(b) Annual appropriation authorization; availability of moneys for execution of provisions, for grants, contracts, cooperative agreements, and studies, and for correlation of results of studies and research.

There are authorized to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization Acts to carry out the provisions of this chapter during the fiscal years 1973 to 1977, inclusive, and to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this chapter and such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this chapter.

(c) Foreign research; availability of funds.

Not more than 2 per centum of the funds to be made available in any fiscal year for research under

the authority of this chapter may be expended, subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the program in the United States. (Pub. L. 92–60, § 10, July 29, 1971, 85 Stat. 162.)

ANNUAL AUTHORIZATION OF APPROPRIATIONS

Annual authorization of appropriations for the saline water conversion programs for fiscal years authorized by subsec. (b) of this section were contained in the following appropriations Acts:

1976—Pub. L. 94–38, June 19, 1975, 89 Stat. 217.
1975—Pub. L. 93–342, July 10, 1974, 88 Stat. 295.
1974—Pub. L. 93–51, July 1, 1973, 87 Stat. 129.
1973—Pub. L. 92–273, April 17, 1972, 86 Stat. 122.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

Chapter 19A.—WATER RESOURCES RESEARCH PROGRAM

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

Sec.
1961c–8. Excess personal property; conveyance to cooperating institutes, educational institutions, and nonprofit organizations [New].

SUBCHAPTER I.—STATE WATER RESOURCES RESEARCH INSTITUTES

§ 1961a. Water resources research institutes.

(a) Appropriations; establishment; number; designation of institution; interstate or regional institutes; participation of educational institutions in institute work.

There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums adequate to provide $75,000 to each of the several States in the first year, $87,500 in each of the second and third years, and $250,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in that State, which college or university shall be a college or university established in accordance with sections 301 to 305, 307 and 308 of Title 7 or some other institution designated by Act of the legislature of the State concerned: *Provided*, That (1) if there is more than one such college or university in a State, established in accordance with sections 301 to 305, 307 and 308 of Title 7, funds under this chapter shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this chapter; (2) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute: *Provided further*, That for fiscal year 1973 not more than $125,000 shall be appropriated for each of the District of Columbia, the Virgin Islands, and Guam, and for fiscal year 1974 not more than $200,000 shall be appropriated for each of such areas.

(b) Duties of institutes; scope of activities.

It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments, Such research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological and other aspects of water problems and scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research deemed potentially significant for solution of water resource problems, providing means for improved communication regarding such research results, including prototype operations, ascertaining the existing and potential effectiveness of such for aiding in the solution of practical problems, and for training qualified persons in the performance of such scientific information dissemination; having due regard to the varying conditions and needs of the respective State, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research. The annual programs submitted by the State institutes to the Secretary for approval shall include assurance satisfactory to the Secretary that such programs were developed in close consultation and collaboration with leading water resources officials within the State to promote research, training, and other work meeting the needs of the State. (As amended Pub. L. 92–175, §§ 1–3, Dec. 2, 1971, 85 Stat. 493.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–175, § 1, substituted "$250,000" for "$100,000" and added the further proviso limiting the 1973 fiscal year appropriations for the District of Columbia, the Virgin Islands, and Guam to $125,000 each and the 1974 fiscal year appropriations to $200,000 each.

Subsec. (b). Pub. L. 92–175, §§ 2, 3, added the dissemination of scientific information to the enumeration of duties for the institutes and added requirement that the annual programs submitted by the State institutes to the Secretary for approval include assurance satisfactory to the Secretary that such programs were developed in close consultation and collaboration with leading water resources officials within the State to promote research, training, and other work meeting the needs of the State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a–2, 1961a–4, 1961c–7 of this title.

§ 1961a–2. Payments to institutes; time; amount; vouchers; accounting officers; reports to Secretary of Interior; State replacement of diminished, lost, or misapplied funds.

Sums available to the States under the terms of sections 1961a and 1961a–1 of this title shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Funds received by an institute pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions (41 CFR 1–15.3), including future amendments thereto: *Provided,* That the direct costs of the programs of each State institute, as distinguished from indirect costs, are not less than the amount of the Federal funds made available to such State institute pursuant to section 1961a of this title. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this chapter and shall make an annual report to the Secretary on or before the 1st day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this chapter during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this chapter shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State. (As amended Pub. L. 92–175, § 4, Dec. 2, 1971, 85 Stat. 493.)

REFERENCES IN TEXT

The Federal procurement regulations (41 CFR 1–15.3), referred to in text, are set out in the Code of Federal Regulations, Title 41, Public Contracts and Property Management. Such regulations constitute Subpart 1–15.3 of the Part covering contract cost principles and procedures and consist of § 1–15.301 et seq. of such regulations.

AMENDMENTS

1971—Pub. L. 92–175 authorized the use of funds for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions, with the proviso that direct costs be not less than the amount of Federal funds made available to the State institute pursuant to section 1961a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a–4, 1961c–7 of this title.

SUBCHAPTER II.—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

§ 1961b. Research into water problems related to the mission of the Department of the Interior.

* * * * *

(b) Repealed. Pub. L. 93–608, § 1(17), Jan. 2, 1975, 88 Stat. 1970.

(c) Annual report to the President and Congress.

In addition to other requirements of this chapter, the Secretary's annual report to the President and Congress as required by section 1961c–7 of this title shall specifically identify each contract and grant award approved under subsection (a) of this section in the preceding fiscal year, including the title of each research project, name of performing organization, and the amount of each grant or contract. (As amended Pub. L. 92–175, § 5, Dec. 2, 1971, 85 Stat. 493; Pub. L. 93–608, § 1(17), Jan. 2, 1974, 88 Stat. 1970.)

CODIFICATION

Amendment by section 1(17) of Pub. L. 93–608, which struck out subsec. (b), in addition, provided for redesignation of subsec. (a) as entire section; however, as such redesignation was made without reference to subsec. (c). Redesignation has not been executed in order to conform to the probable intent of Congress.

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–608 repealed subsec. (b) which required the submission to the President of the Senate and Speaker of the House of Representatives of a copy of each grant, etc., sixty days prior to the award of any such grant, etc., under provisions of section.

1971—Subsec. (c). Pub. L. 92–175 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c–7 of this title.

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§ 1961c–6. "State" defined.

As used in this chapter, the term "State" includes the Commonwealth of Puerto Rico, the District of Columbia, and the territories of the Virgin Islands and Guam. (As amended Pub. L. 92–175, § 6, Dec. 2, 1971, 85 Stat. 494.)

AMENDMENTS

1971—Pub. L. 92–175 added "the District of Columbia, and the territories of the Virgin Islands and Guam".

§ 1961c–7. Annual report by the Secretary of Interior to the President and Congress.

The Secretary shall make a report to the President and Congress on or before October 1 of each year showing the disposition during the preceding fiscal year of moneys appropriated to carry out this chapter, the results expected to be accomplished through projects financed during that year under sections 1961a–1 and 1961b of this title, and the conclusions reached in or other results achieved by those projects which were completed during that year. The report shall also include an account of the work of all institutes financed under section 1961a of this title and indicate whether any portion of an allotment to any State was withheld and, if so, the reasons therefor. (As amended Pub. L. 92–175, § 7, Dec. 2, 1971, 85 Stat. 494.)

AMENDMENTS

1971—Pub. L. 92–175 substituted "October 1" for "March 1" and "fiscal year" for "calendar year".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961b of this title.

§ 1961c–8. Excess personal property; conveyance to cooperating institutes, educational institutions, and nonprofit organizations.

Excess personal property acquired by the Secretary under the Federal Property and Administrative Services Act of 1949, as amended, for use in furtherance of the purposes of this chapter may be conveyed by the Secretary to a cooperating institute, educational institution, or nonprofit organization, with or without consideration, under such terms and conditions as the Secretary may prescribe. (Pub. L. 88–379, title III, § 308, as added Pub. L. 92–175, § 8, Dec. 2, 1971, 85 Stat. 494.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 378. Titles I–IV and VI thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

Chapter 19B.—WATER RESOURCES PLANNING

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

Sec.

1962d–5c. Non-Federal public bodies, installment construction payments [New].
(a) Annual installments during period of construction in absence of other provision for extended repayment.
(b) Cost sharing; modification.
1962d–15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States [New].
1962d–16. Comprehensive plans for development, utilization, and conservation of water and related resources [New].
(a) Federal and State cooperation.
(b) Authorization of appropriations; general and State limitation.
1962d–17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation [New].
(a) Interest rate formula for discounting future benefits and cost computations; repeal of conflicting provisions and administrative actions.
(b) Interest rate for prior authorized projects assured of non-Federal share of project costs; continuation of rate.
(c) Water and related resources projects; Presidential study; scope of study; report to Congress.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1959a of this title; title 16 section 1275; title 33 section 1289.

§ 1962–2. Congressional statement of objectives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d–17 of this title.

SUBCHAPTER I.—WATER RESOURCES COUNCIL

§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman.

There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President. (As amended Pub. L. 94–112, § 1(a), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Pub. L. 94–112 included in the membership of the Water Resources Council, the Secretaries of Commerce, Housing and Urban Development, and Transportation and the Administrator of the Environmental Protection Agency, and terminated the membership for the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1656.

§ 1962a–1. Powers and duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5912 of this title.

§ 1962a–2. Establishment of principles, standards, and procedures for preparation of regional or river basin plans and Federal projects; revision of river basin planning commission plans.

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Chairman of the Walter Resources Council, see section 2 of Ex. Ord. No. 11747, Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a–3 of this title.

§ 1962a–3. Review of river basin commission plans; report to President and Congress.

EX. ORD. NO. 11747. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11747, Nov. 7, 1973, 38 F.R. 30993, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget is designated and empowered to exercise, without the approval, ratification, or other action of the President, the functions vested in the President by (1) sections 104(b) and 204(3) of the Water Resources Planning Act, as amended (42 U.S.C. 1962a–3(b) and 1962b–3(3), respectively), with respect to reviewing plans, or revisions thereof, of river basin commissions established pursuant to that act and transmitting those plans or revisions thereto to the Congress with appropriate recommendations; and (2) section 301(b) of the same act (42 U.S.C. 1962c(b)) with respect to approving rules, procedures, arrangements, and provisions relating to coordination of Federal planning assistance programs and utilization of Federal agencies administering related programs.

SEC. 2. The Chairman of the Water Resources Council is designated and empowered to exercise, without the approval, ratification, or other action of the President, the approval function for standards and procedures vested in the President by section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a–2).

RICHARD NIXON.

§ 1962a–4. Administrative provisions.

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers.

For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such

testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5; (5) procure services as authorized by section 15 of the Act of August 2, 1946, at rates not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of Title 5 in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

* * * * *

(As amended Pub. L. 94–112, § 1(b), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (a)(5). Pub. L. 94–112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of Title 5 in the case of individual experts or consultants" for "not to exceed $100 per diem for individuals".

SUBCHAPTER II.—RIVER BASIN COMMISSIONS

§ 1962b. Creation of commissions; powers and duties.

EX. ORD. NO. 11331. PACIFIC NORTHWEST RIVER BASINS COMMISSION

Ex. Ord. No. 11331, Mar. 6, 1967, 32 F.R. 3875, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299, provided:

* * * * *

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b–1 of this title], the Commission shall consist of the following:

* * * * *

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Environmental Protection Agency, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

* * * * *

EX. ORD. NO. 11345. GREAT LAKES BASIN COMMISSION

Ex. Ord. No.11345, Apr. 20, 1967, 32 F.R. 6329, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11646, Feb. 8, 1972, 37 F.R. 2925; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

* * * * *

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b–1 of this title], the Commission shall consist of the following:

* * * * *

(2) one member from each of the following Federal departments and agencies: Department of State, Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Transportation, Energy Research and Development Administration, Environmental Protection Agency, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

* * * * *

SEC. 5. *International Coordination.* The Council and the Department of State shall consult as appropriate on matters under consideration by the Commission which relate to the areas of interest and jurisdiction of the International Joint Commission, United States and Canada, and the Great Lakes Fishery Commission.

* * * * *

EXECUTIVE ORDER NO. 11359

Ex. Ord. No. 11359, June 20, 1967, 32 F.R. 8851, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11635, Dec. 9, 1971, 36 F.R. 23615, formerly set out as a note under this section, which established the Souris-Red-Rainy Basins Commission, was superseded by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, set out as a note under this section.

EX. ORD. NO. 11371. ESTABLISHMENT OF NEW ENGLAND RIVER BASINS COMMISSION

Ex. Ord. No. 11371, Sept. 6, 1967, 32 F.R. 12903, as amended by Ex. Ord. No. 11528, Apr. 24, 1970; 35 F.R. 6695; Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11707, Mar. 12, 1973, 38 F.R. 6877; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

* * * * *

SEC. 2. *Jurisdiction of Commission.* (a) It is hereby determined that the jurisdiction of the New England River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to an area composed as follows:

* * * * *

(3) The State of Vermont,

(4) The State of Massachusetts,

* * * * *

SEC. 3. *Membership of Commission.* It is hereby determined, in accordance with section 202 of the Act [section 1962b—1 of this title], that the Commission shall consist of the following:

* * * * *

(2) one member from each of the following Federal departments and agencies: Department of Agricultural, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Environmental Protection Agency, Energy Research and Development Administration and Federal Power Commission, each such member to be appointed by the head of each department or independent agency he represents,

* * * * *

EX. ORD. NO. 11578. ESTABLISHMENT OF OHIO RIVER BASIN COMMISSION

Ex. Ord. No. 11578, Jan. 13, 1971, 36 F.R. 683, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

WHEREAS the Water Resources Planning Act (79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] provides for the establishment of river basin water and related land resources commissions; and

WHEREAS the Governors of the States of the Ohio River drainage basin, excluding the Tennessee River drainage basin, and the Water Resources Council have requested, or concurred in, the establishment of such a commission:

NOW THEREFORE, by virtue of the authority vested in me by section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Ohio River Basin Commission.* It is hereby declared that the Ohio River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Ohio River Basin Commission referred to in section 1 of this order shall

extend to those portions of the States of Kentucky, Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia that are located within the Ohio River drainage basin, excluding the Tennessee River drainage basin.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act (42 U.S.C. 1962b–1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Federal Power Commission, Energy Research and Development Administration, and the Environmental Protection Agency, such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Kentucky, Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, and West Virginia, and a member from Virginia when authorized by the legislature of that State, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions, Powers, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD NO. 11613. MEMBERSHIP OF ENVIRONMENTAL PROTECTION AGENCY ON ESTABLISHED RIVER BASIN COMMISSION

Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299, provided:

By virtue of the authority vested in me by section 202 of the Water Resources Planning Act (79 Stat. 247; 42 U.S.C. 1962b–1) and as President of the United States, it is ordered as follows:

SECTION 1. Section 3(2) of each of the following-described Executive orders is amended by adding "Environmental Protection Agency," immediately after "Department of Transportation,"—

(1) Executive Order No. 11331 of March 6, 1967, establishing the Pacific Northwest River Basins Commission;

(2) Executive Order No. 11345 of April 20, 1967, establishing the Great Lakes Basin Commission;

(3) Executive Order No. 11359 of June 20, 1967, establishing the Souris-Red-Rainy River Basins Commissions; and

(4) Executive Order No. 11371 of September 6, 1967, establishing the New England River Basins Commission, as amended by Executive Order No. 11528 of April 24, 1970.

SEC. 2. The Administrator of the Environmental Protection Agency shall appoint a member to each river basin commission to serve as the representative of that Agency as soon as practicable after the date of issuance of this Order.

RICHARD NIXON.

EX. ORD. NO. 11658. ESTABLISHMENT OF MISSOURI RIVER BASIN COMMISSION

Ex. Ord. No. 11658, Mar. 22, 1972, 37 F.R. 6045, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) [this chapter] provides for the establishment of river basin water and related land resources commissions. In conformity with the requirements of that act a majority of the Governors of the States of the Missouri River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

Now, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b) [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Missouri River Basin Commission.* It is hereby declared that the Missouri River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*) [this subchapter].

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Missouri River Basin Commission referred to in Section 1 of this order shall extend to the State of Nebraska and those portions of the States of Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, North Dakota, South Dakota, and Wyoming that are located within the Missouri River drainage basin, defined as the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b–1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Federal Power Commission; Energy Research and Development Administration; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming,

(4) one member from each interstate agency created by an interstate compact to which the consent of the Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Powers and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Water Resources Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD. NO. 11659. ESTABLISHMENT OF UPPER MISSISSIPPI RIVER BASIN COMMISSION

Ex. Ord. No. 11659, Mar. 22, 1972, 37 F.R. 6047, as amended by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) [this chapter] provides for the establishment of river basin water and related land resources commission. In conformity with the requirements of that act the Governors of the States of the Upper Mississippi River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

Now, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b) [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Upper Mississippi River Basin Commission.* It is hereby declared that the Upper Mississippi River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*) [this subchapter].

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota that are loacted within the Upper Mississippi, Souris, Red, or Rainy River drainage basins. The Upper Mississippi River drainage basin is defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b–1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Federal Power Commission; Energy Research and Development Administration; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota.

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Power, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, South Dakota, and Montana on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin or the drainages of the Souris, Red, or Rainy River Basins in those States and to give notice to those States of meetings of the Commission.

SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 7. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD. NO. 11737. ENLARGEMENT OF UPPER MISSISSIPPI RIVER BASIN COMMISSION

Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, provided:

The Governors of the member States of the Upper Mississippi River Basin Commission and of the Souris-Red-Rainy River Basins Commission, together with the Water Resources Council, have requested, or concurred in, the enlargement of the Upper Mississippi River Basin Commission to include those portions of the States of Minnesota and North Dakota that are drained by the Souris-Red-Rainy Rivers system. The Souris-Red-Rainy River Basins Commission terminated on June 30, 1973, by operation of Section 7 of Executive Order No. 11359 of June 20, 1967, as amended. I have determined that it would be in the public interest to comply with the above request.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b) and as President of the United States, it is ordered as follows:

SECTION. 1. Executive Order No. 11659 of March 22, 1972, is hereby amended as follows:

(1) Section 2 is amended to read as follows:

"SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota that are located within the Upper Mississippi, Souris, Red, or Rainy River drainage basins. The Upper Mississippi River drainage basin is defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River."

(2) Section 3(3) is amended to read as follows:

"(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota."

(3) Section 5 is amended to read as follows:

"SEC. 5. *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, South Dakota, and Montana on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin or the drainages of the Souris, Red, or Rainy River Basins in those States and to give notice to those States of meetings of the Commission."

(4) Section 6 is hereby redesignated as Section 7 and a new Section 6 is hereby inserted immediately after Section 5 as follows:

"SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination."

SEC. 2. All funds, property, records, employees, assets, and obligations of the Souris-Red-Rainy River Basins Commission are, with the concurrence of Governors of the affected States, transferred to the Upper Mississippi River Basin Commission, effective as of July 1, 1973.

SEC. 3. Executive Order No. 11359 of June 20, 1967, and Executive Order No. 11635 of December 9, 1971, are hereby superseded.

RICHARD NIXON.

EX. ORD. NO. 11882. MEMBERSHIP OF ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION ON ESTABLISHED RIVER BASIN COMMISSIONS

Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, provided:

By virtue of the authority vested in me by section 202 of the Water Resources Planning Act (79 Stat. 247, 42 U.S.C. 1962b–1), and as President of the United States, it is hereby ordered as follows:

SECTION 1. Section 3(2) of Executive Order No. 11345 of April 20, 1967, as amended [set out as a note under this section], establishing the Great Lakes Basin Commission, is amended by adding "Energy Research and Development Administration," immediately after "Department of Transportation."

SEC. 2. Section 3(2) of each of the following Executive orders is amended by deleting "Atomic Energy Commission" and substituting therefor "Energy Research and Development Administration":

(a) Executive Order No. 11371 of September 6, 1967, as amended [set out as a note under this section], establishing the New England River Basins Commission;

(b) Executive Order No. 11578 of January 13, 1971 [set out as a note under this section], establishing the Ohio River Basin Commission;

(c) Executive Order No. 11658 of March 22, 1972 [set out as a note under this section], establishing the Missouri River Basin Commission; and

(d) Executive Order No. 11659 of March 22, 1972, as amended [set out as a note under this section], establishing the Upper Mississippi River Basin Commission.

SEC. 3. The Administrator of the Energy Research and Development Administration shall appoint a member to each river basin commission to serve as the representative of that agency as soon as practicable after the date of issuance of this order.

GERALD R. FORD.

§ 1962b–3. Duties of commissions.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (3) of this section delegated to the Director of the Office of Management and Budget, see section 1 of Ex. Ord. No. 11747, Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a–3 of this title.

§ 1962b–4. Administrative provisions.

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel, consultants, and professional service contracts; personnel from other agencies; retirement and employee benefit system for personnel without coverage; motor vehicles; necessary expenses; other powers.

For the purpose of carrying out the provisions of this subchapter, each river basin commission may—

* * * * *

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of Title 5, and retain and compensate such professional or technical service firms as it deems advisable on a contract basis;

* * * * *

(As amended Pub. L. 94–112, § 1(c), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (a)(4). Pub. L. 94–112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of Title 5" for "not to exceed $100 per diem".

SUBCHAPTER III.—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

§ 1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning.

(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council, for fiscal years 1977 and 1978, $5,000,000 in each such year for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

* * * * *

(As amended Pub. L. 94–112, § 1(d), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–112 substituted "for fiscal years 1977 and 1978," for "for the next fiscal year beginning after July 22, 1965, and for the nine succeeding fiscal years thereafter,".

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) of this section delegated to the Director of the Office of Management and Budget, see section 1 of Ex. Ord. No. 11747, Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a–3 of this title.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 1962d. Authorization of appropriations to the Water Resources Council.

There are authorized to be appropriated to the Water Resources Council:

(a) Limitation for single river basin commission.

not to exceed $6,000,000 annually for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: *Provided,* That not more than $750,000 annually shall be available under this subsection for any single river basin commission;

(b) Limitation on the expenses of the Water Resources Council.

not to exceed $1,500,000 annually for the expenses of the Water Resources Council in administering this chapter, not including funds authorized by subsection (c) below;

(c) Limitations on the availability of funds for the preparation of assessments and plans.

not to exceed a total of $10,000,000 for fiscal years 1976 and 1977 for preparation of assessments, and for directing and coordinating the preparation of such regional or river basin plans as the Council determines are necessary and desirable in carrying out the policy of this chapter: *Provided,* That not more than $2,500,000 shall be available under this subsection for the preparation of assessments: *Provided further,* That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection.

(As amended Pub. L. 92–27, June 17, 1971, 85 Stat. 77. Pub. L. 92–396, Aug. 20, 1972, 86 Stat. 578; Pub. L. 93–55, July 1, 1973, 87 Stat. 140; Pub. L. 94–112, § 1(e), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–112 substituted "not to exceed a total of $10,000,000 for fiscal years 1976 and 1977" for "not to exceed $3,500,000 annually for fiscal years 1974 and 1975".

1973—Subsec. (c). Pub. L. 93–55 substituted "annually for fiscal years 1974 and 1975" for "in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts".

1972—Pub. L. 92–396 authorized appropriations to the Water Resources Council, and in subsec. (a), substituted "chairmen" for "chairman", in subsec. (b) inserted "not including funds authorized by subsection (c) below", and added subsec. (c).

1971—Pub. L. 92–27 substituted appropriation authorization of $6,000,000 annually for Federal share of expenses of administration and operation of river basin commissions, including salaries and expenses of chairman, for former provisions for annual appropriation authorization of $500,000; $6,000,000; and $400,000 for subchapters I, II, and III of this chapter and authorize appropriation of $1.5 million annually for administration expenses of Water Resources Council.

§ 1962d–5. Water resources development projects involving navigation, flood control, and shore protection.

LOCAL COOPERATION, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, § 24, Mar. 7, 1974, 88 Stat. 20, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a complete study of the items of local cooperation involving hold and save harmless provisions which have been required for water resources development projects under his jurisdiction, and his reasons for such requirements, and to report thereon to the Congress not later than June 30, 1975, together with recommendations as to those items of local cooperation which should appropriately be required for various types of water resources development projects."

LAND AND WATER USE, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, § 25, Mar. 7, 1974, 88 Stat. 20 provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study land use practices and recreational uses at water resource development projects under his jurisdiction, and to report thereon to the Congress not later than June 30, 1975, with recommendations as to the best use of such lands for outdoor recreation, fish and wildlife enhancement, and related purposes."

NATIONAL STREAMBANK EROSION PREVENTION AND CONTROL DEMONSTRATION PROGRAM

Pub. L. 93–251, title I, § 32, Mar. 7, 1974, 88 Stat. 21, provided that:

"(a) This section may be cited as the 'Streambank Erosion Control Evaluation and Demonstration Act of 1974'.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to establish and conduct for a period of five fiscal years a national streambank erosion prevention and control demonstration program. The program shall consist of (1) an evaluation of the extent of streambank erosion on navigable rivers and their tributaries; (2) development of new methods and techniques for bank protection, research on soil stability, and identification of the causes of erosion; (3) a report to the Congress on the results of such studies and the recommendations of the Secretary of the Army on means for the prevention and correction of streambank erosion; and (4) demonstration projects, including bank protection works.

"(c) Demonstration projects authorized by this section shall be undertaken on streams selected to reflect a variety of geographical and environmental conditions, including streams with naturally occurring erosion problems and streams with erosion caused or increased by man-made structures or activities. At a minimum, demonstration projects shall be conducted at multiple sites on—

"(1) the Ohio River;

"(2) that reach of the Missouri River between Fort Randall Dam, South Dakota, and Sioux City, Iowa;

"(3) that reach of the Missouri River in North Dakota at or below the Garrison Dam; and

"(4) the delta and hill areas of the Yazoo River Basin generally in accordance with the recommendations of the Chief of Engineers in his report dated September 23, 1972.

"(d) Prior to construction of any projects under this section, non-Federal interests shall agree that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the projects; hold and save the United States free from damages due to construction, operation, and maintenance of the projects; and operate and maintain the projects upon completion.

"(e) There is authorized to be appropriated for the five-fiscal-year period ending June 30, 1978, not to exceed $25,000,000 to carry out subsections (b), (c), and (d) of this section."

NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM

Pub. L. 93–251, title I, § 54, Mar. 7, 1974, 88 Stat. 26, provided that:

"(a) This section may be cited as the 'Shoreline Erosion Control Demonstration Act of 1974'.

"(b) The Congress finds that because of the importance and increasing interest in the coastal and estuarine zone of the United States, the deterioration of the shoreline within this zone due to erosion, the harm to water quality and marine life from shoreline erosion, the loss of recreational potential due to such erosion, the financial loss to private and public landowners resulting from shoreline erosion, and the inability of such landowners to obtain satisfactory financial and technical assistance to combat such erosion, it is essential to develop, demonstrate, and disseminate information about low-cost means to prevent and control shoreline erosion. It is therefore the purpose of this section to authorize a program to develop and demonstrate such means to combat shoreline erosion.

"(c)(1) The Secretary of the Army, acting through the Chief of Engineers, shall establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program. The program shall consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative.

"(2) The program shall be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to subsection (d).

"(3) Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered or inland waters. Such projects shall be undertaken at no less than two sites each on the shorelines of the Atlantic, Gulf and Pacific coasts, the Great Lakes, and the State of Alaska, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Sloughter Beach, Broadkill Beach, and Lewes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

"(4) Such demonstration projects may be carried out on private or public lands except that no funds appropriated for the purpose of this section may be expended for the acquisition of privately owned lands. In the case of sites located on private or non-Federal public lands, the demonstration projects shall be undertaken in cooperation with a non-Federal sponsor or sponsors who shall pay at least 25 per centum of construction costs at each site and assume operation and maintenance costs upon completion of the project.

"(d)(1) No later than one hundred and twenty days after the date of enactment of this section [Mar. 7, 1974] the Chief of Engineers shall establish a Shoreline Erosion Advisory Panel. The Chief of Engineers shall appoint fifteen members to such Panel from among individuals who are knowledgeable with respect to various aspects of shoreline erosion, with representatives from various geographical areas, institutions of higher education, professional organizations, State and local agencies, and private organizations, except that such individuals shall not be regular full-time employees of the United States. The Panel shall meet and organize within ninety days from the date of its establishment, and shall select a Chairman from among its members. The Panel shall then meet at least once each six months thereafter and shall expire ninety days after termination of the five-year program established pursuant to subsection (c).

"(2) The Panel shall—

"(A) advise the Chief of Engineers generally in carrying out provisions of this section;

"(B) recommend criteria for the selection of development and demonstration sites;

"(C) recommend alternative institutional, legal, and financial arrangements necessary to effect agreements with non-Federal sponsors of project sites;

"(D) make periodic reviews of the progress of the program pursuant to this section;

"(E) recommend means by which the knowledge obtained from the project may be made readily available to the public; and

"(F) perform such functions as the Chief of Engineers may designate.

"(3) Members of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at rates fixed by the Chief of Engineers, but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime and while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) [now sections 5703 and 5707 of Title 5] for persons in Government service employed intermittently.

"(4) The Panel is authorized, without regard to the civil service laws, to engage such technical and other assistance as may be required to carry out its functions.

"(e) The Secretary of the Army, acting through the Chief of Engineers, shall prepare and submit annually a program progress report, including therein contributions of the Shoreline Erosion Advisory Panel, to the Committees on Public Works of the Senate and House of Representatives. The fifth and final report shall be submitted sixty days after the fifth fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

"(f) There is authorized to be appropriated for the first fiscal year following enactment of this section [Mar. 7, 1974], and the succeeding four fiscal years, a total of not to exceed $8,000,000 to carry out the provisions of this section."

TECHNICAL AND ENGINEERING ASSISTANCE FOR NON-FEDERAL DEVELOPMENT OF EROSION PREVENTION METHODS.

Pub. L. 93–251, title I, § 55, Mar. 7, 1974, 88 Stat. 28, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide technical and engineering assistance to non-Federal public interests in developing structural and non-structural methods of preventing damages attributable to shore and streambank erosion."

VISITOR PROTECTION SERVICES, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, § 75, Mar. 7, 1974, 88 Stat. 32, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study the need for and means of providing visitor protection services at water resources development projects under the jurisdiction of the Department of the Army, and to report thereon to the Congress, with his recommendations, not later than December 31, 1974."

§ 1962d–5b. Water resources projects; written agreement requirement.

* * * * *

(f) Effective date.

This section shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended. (As amended Pub. L. 92–222, § 4, Dec. 23, 1971, 85 Stat. 799.)

REFERENCES IN TEXT

The Water Supply Act of 1958, as amended, referred to in subsec. (f), is classified to section 390b of Title 43, Public Lands.

AMENDMENTS

1971—Subsec. (f). Pub. L. 92–222 made provisions of section inapplicable to the assurances for future demands required by the Water Supply Act of 1958, as amended.

§ 1962d–5c. Non-Federal public bodies, installment construction payments.

(a) Annual installments during period of construction in absence of other provision for extended repayment.

In connection with any water resource development project, heretofore, herein, or hereafter authorized to be undertaken by the Secretary of the Army, the construction of which has not been initiated as of March 7, 1974, where authorization requires that non-Federal public bodies make an agreed-upon cash contribution as part of their reimbursement to the Federal Government for construction costs, or a specific portion of the construction costs, and where there exists no other provision of law which would permit extended repayment for the construction costs or such specific portion of the construction costs involved, such non-Federal public bodies may make such repayment in annual installments during the period of construction.

(b) Cost sharing; modification.

Upon the request of affected non-Federal public bodies, the Secretary of the Army is authorized to modify existing cost sharing agreements in order to effectuate the provisions of subsection (a) of this section. (Pub. L. 93–251, title I, § 40, Mar. 7, 1974, 88 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of the Water Resources Planning Act which comprises this chapter.

SHORT TITLE

Section 109 of Pub. L. 93–251 provided that: "This title [which, as found substantially in the Code, enacted sections 1962d–5c and 1962d–15 to 1962d–17 of this title, section 460ee of Title 16, and sections 59c–2, 59k, 579, 701b–11, and 1252a of Title 33, amended section 4482 of this title, sections 4601–13(a), (a)(3) and 4601–14(b)(1) of Title 16, section 275a of Title 22, and sections 701g, 701n, 701r, 701r–1(c), 701s, 709a(b), and 1165a(d) of Title 33, and enacted provisions set out as notes under sections 1962d–5 and 1962d–7 of this title and under section 4601–13 of Title 16] may be cited as the 'Water Resources Development Act of 1974'."

§ 1962d–6. Feasibility studies; acceleration; advancement of costs by non-Federal sources.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 838.

§ 1962d–7. Delmarva Peninsula hydrologic study; duties of Secretary of Interior.

WASHINGTON METROPOLITAN AREA WATER NEEDS AND ESTUARIAL WATER SUPPLIES; STUDIES

Pub. L. 93–251, title I, § 85, Mar. 7, 1974, 88 Stat. 36, provided in part for a study of Washington Metropolitan Area Future Water Needs, coordinated with Northeastern United States Water Supply study, and for a study of Estuarial Water Supplies, including a Potomac Estuary Water Treatment Pilot Project, for review of scientific basis for study conclusions by National Academy of Sciences-National Academy of Engineering, and made further authorizations for Sixes Bridge Dam and Lake Project, Maryland dependent on such studies and review.

§ 1962d–15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States.

The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors. (Pub. L. 93–251, title I, § 9, Mar. 7, 1974, 88 Stat. 16.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d–16. Comprehensive plans for development, utilization, and conservation of water and related resources.

(a) Federal and State cooperation.

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins located within the boundaries of such State and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(b) Authorization of appropriations; general and State limitation.

There is authorized to be appropriated not to exceed $2,000,000 annually to carry out the provisions of this section except that not more than $200,000 shall be expended in any one year in any one State. (Pub. L. 93–251, title I, § 22, Mar. 7, 1974, 88 Stat. 20.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d–17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation.

(a) Interest rate formula for discounting future benefits and cost computations; repeal of conflicting provisions and administrative actions.

The interest rate formula to be used in plan formulation and evaluation for discounting future benefits and computing costs by Federal officers, employees, departments, agencies, and instrumentalities in the preparation of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects shall be the formula set forth in the "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published as Senate Document 97 of the Eighty-seventh Congress on May 29, 1962, as amended by the regulation issued by the Water Resources Council and published in the Federal Register on December 24, 1968 (33 F.R. 19170; 18 C.F.R. 704.39), until otherwise provided by a statute enacted after March 7, 1974. Every provision of law and every administrative action in conflict with this section is hereby repealed to the extent of such conflict.

(b) Interest rate for prior authorized projects assured of non-Federal payment of non-Federal share of project costs; continuation of rate.

In the case of any project authorized before January 3, 1969, if the appropriate non-Federal interests have, prior to December 31, 1969, given satisfactory assurances to pay the required non-Federal share of project costs, the discount rate to be used in the computation of benefits and costs for such project shall be the rate in effect immediately prior to December 24, 1968, and that rate shall continue to be used for such project until construction has been completed, unless otherwise provided by a statute enacted after March 7, 1974.

(c) Water and related resources projects; Presidential study; scope of study; report to Congress.

The President shall make a full and complete investigation and study of principles and standards for planning and evaluating water and related resources projects. Such investigation and study shall include, but not be limited to, consideration of enhancing regional economic development, the quality of the total environment including its protection and improvement, the well-being of the people of the United States, and the national economic development, as objectives to be included in federally-financed water and related resources projects and in the evaluation of costs and benefits attributable to such projects, as intended in section 1962–2 of this title, the interest rate formula to be used in evaluating and discounting future benefits for such projects, and appropriate Federal and non-Federal cost sharing for such projects. He shall report the results of such investigation and study, together with his recommendations, to Congress not later than one year after funds are first appropriated to carry out this subsection. (Pub. L. 93–251, title I, § 80, Mar. 7, 1974, 88 Stat. 34.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of the Water Resources Planning Act which comprises this chapter.

Chapter 20.—ELECTIVE FRANCHISE

SUBCHAPTER I–B.—SUPPLEMENTAL PROVISIONS

Sec.
1973aa–1a. Bilingual election requirements [New].
(a) Congressional findings and declaration of policy.
(b) Prohibition of voting notices, forms, instructions, assistance, or other materials and ballots in English language only.
(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language.
(d) Action for declaratory judgment permitting English-only materials.
(e) Definitions.
1973aa–5. Survey to compile registration and voting statistics [New].
(a) Elections to House of Representatives and elections designated by United States Commission on Civil Rights.
(b) Prohibition against compulsion to disclose personal data; advice of rights.
(c) Report to Congress.
(d) Confidentiality of information; penalties.

SUBCHAPTER I–D.—FEDERAL ABSENTEE VOTING ASSISTANCE

PART I.—RECOMMENDATION TO STATES

Sec.
1973cc State enactment of absentee voting legislation.
1973cc–1. Balloting procedures.
1973cc–2. Statistical data.
1973cc–3. Personnel residing on military installations; acquisition of legal residence for voting purposes.

PART II.—RESPONSIBILITIES OF FEDERAL GOVERNMENT

1973cc–11. Presidential designee to coordinate and facilitate actions to discharge Federal responsibilities; report.
1973cc–12. Current absentee voting information.
1973cc–13. Cooperation of Government officials; drafts of state legislation; printing and transmitting of post cards.

Sec.
1973cc–14. Form and content of post card application.
1973cc–15. Post card for election for Members of Congress.

PART III.—GENERAL PROVISIONS

1973cc–21. Definitions.
1973cc–22. Free postage.
1973cc–23. Prevention of fraud and coercion.
1973cc–24. Acts done in good faith.
1973cc–25. Undue influence; free discussion.
1973cc–26. Appropriations.

SUBCHAPTER I–E.—VOTING RIGHTS OF OVERSEAS CITIZENS [NEW]

1973dd. Definitions.
1973dd–1. Qualifications for registration and vote by absentee ballot.
1973dd–2. State provisions for registration and vote by absentee ballot.
1973dd–3. Enforcement by Attorney General.
(a) Jurisdiction of courts.
(b) Depriving or attempting to deprive persons of secured rights; penalties.
(c) Giving or conspiring to give false information; payment or acceptance of money; penalties.
1973dd–4. Separability of provisions.
1973dd–5. State registration requirements and voting practices.

SUBCHAPTER I.—GENERALLY

§ 1971. Voting rights.

* * * * *

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

* * * * *

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions.

* * * * *

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 3331 of title 5; to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

* * * * *

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General

nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

CODIFICATION

Subsecs. (c) and (g) of this section have been set out in this Supplement to correct typographical errors.

In subsec. (e), "section 3331 of Title 5" was substituted for "Revised Statutes, section 1757 (5 U.S.C. 16)" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

SUBCHAPTER I–A.—ENFORCEMENT OF VOTING RIGHTS

§ 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites.

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title. (As amended Pub. L. 94–73, title II, § 206, Aug. 6, 1975, 89 Stat. 402.)

AMENDMENTS

1975—Pub. L. 94–73 substituted "race or color, or in contravention of the guarantees set forth in section 1973b (f)(2) of this title" for "race or color".

SEPARABILITY OF PROVISIONS

Section 208 of Pub. L. 94–73 provided that: "If any amendments made by this Act [enacting sections 1973aa–1a and 1973aa–5 of this title, amending sections 1973, 1973a to 1973d, 1973h, 1973i, 1973k, 1973*l*, 1973aa, 1973aa–2, 1973aa–3, 1973bb, 1973bb–1 of this title, and repealing sections 1973bb–2 to 1973bb–4 of this title] or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of the Voting Rights Act of 1965 [this subchapter and subchapters I–B and I–C of this chapter], or the application of such provision to other persons or circumstances shall not be affected by such determination."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973a. Proceeding to enforce the right to vote.

(a) Authorization by court for appointment of federal examiners.

Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided,* That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) Suspension of use of tests and devices which deny or abridge the right to vote.

If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) Retention of jurisdiction to prevent commencement of new devices to deny or abridge the right to vote.

If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer

or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. (As amended Pub. L. 94–73, title II, §§ 205, 206, title IV, §§ 401, 410, Aug. 6, 1975, 89 Stat. 402, 404, 406.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–73 added reference to the fourteenth amendment in three places, and substituted "voting guarantees" for "guarantees" in three places, "Attorney General or an aggrieved person" for "Attorney General", and "on account of race or color or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (b). Pub. L. 94–73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment", and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (c). Pub. L. 94–73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment" and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973f, 1973i, 1973j, 1973k of this title.

§ 1973b. Suspension of the use of tests or devices in determining eligibility to vote.

(a) Action by state or political subdivision for declaratory judgment of no denial or abridgement; three-judge district court; appeal to Supreme Court; retention of jurisdiction by three-judge court.

To assure that the right of citiens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the seventeen years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of seventeen years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this subchapter, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the seventeen years preceding the filing of an action under the first sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section, he shall consent to the entry of such judgment.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section, he shall consent to the entry of such judgment.

(b) Required factual determinations necessary to allow suspension of compliance with tests and devices; publication in Federal Register.

The provisions of subsection (a) of this section shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous sentence, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968. On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous two sentences, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November 1972.

* * * * *

(d) Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices.

For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

* * * * *

(f) Congressional findings of voting discrimination against language minorities; prohibition of English-only elections; other remedial measures.

(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under subsection (c) of this section, the term "test or device" shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to subsection (b) of this section, the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of subsection (a) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting. (As amended Pub. L. 94–73, title I, § 101, title II, §§ 201–203, 206, Aug. 6, 1975, 89 Stat. 400–402.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–73, §§ 101, 201, 206, in first paragraph, substituted "seventeen years" for "ten years" in two places, and "determinations have been made under the first two sentences of subsection (b)" for "determinations have been made under subsection (b)", added provisions that no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any state with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such state or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section with the proviso that no such declaratory judgment shall issue with respect to

any plaintiff for a period of ten years after the entry of final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff, in second paragraph, substituted "on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section" for "on account of race or color", in third paragraph, substituted "seventeen years preceding the filing of an action under the first sentence of this subsection" for "ten years preceding the filing of the action", and added fourth paragraph.

Subsec. (b). Pub. L. 94–73, § 202, added provisions that on and after August 6, 1975, in addition to any state or political subdivision of a state determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any state or any political subdivision of a state which the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November, 1972.

Subsec. (d). Pub. L. 94–73, § 206, substituted "on account of race or color or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (f). Pub. L. 94–73, § 203, added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1973a, 1973c, 1973d, 1973j, 1973k, 1973*l*, 1973aa–5 of this title.

§ 1973c. Alteration of voting qualifications and procedures; action by state or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three-judge district court; appeal to Supreme Court.

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. (As amended Pub. L. 94–73, title II, §§ 204, 206, title IV, § 405, Aug. 6, 1975, 89 Stat. 402, 404.)

AMENDMENTS

1975—Pub.L. 94–73 inserted "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972," after 1968, substituted "or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object," for "except that neither the Attorney General's failure to object", and "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color", and added provisions that in the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to examine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973*l* of this title.

§ 1973d. Federal voting examiners; appointment.

Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 1973a(a) of this title, or (b) unless a declaratory

judgment has been rendered under section 1973b(a) of this title, the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 1973b(b) of this title that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 1973g(a) of this title and other persons deemed necessary by the Commission to carry out the provisions and purposes of this subchapter shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this subchapter shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended, prohibiting partisan political activity: *Provided,* That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths. (As amended Pub. L. 94–73, title II, §§ 205, 206, Aug. 6, 1975, 89 Stat. 402.)

AMENDMENTS

1975—Pub.L. 94–73 added reference to fourteenth amendment in three places and substituted "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973a, 1973b, 1973l, 1973k of this title.

§ 1973h. Poll taxes.

* * * * *

(b) Authority of Attorney General to institute actions for relief against enforcement of poll tax requirement.

In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) of this section and the purposes of this section.

* * * * *

(d) Repealed. Pub. L. 94–73, title IV, § 408(1), Aug. 6, 1975, 89 Stat. 405.

(As amended Pub. L. 94–73, title IV, § 408, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–73, § 408(2), (3), added reference to section 2 of the twenty-fourth amendment.

Subsec. (d). Pub. L. 94–73, § 408(1), repealed subsec. (d), relating to post-payment of poll taxes in the event of a judicial declaration of constitutionality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973i. Prohibited acts.

* * * * *

(c) False information in registering or voting; penalties.

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays of offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

* * * * *

(e) Voting more than once.

(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 1973aa–1 of this title, to the extent two ballots are not cast for an election to the same candidacy or office. (As amended Pub. L.

94–73, title IV, §§ 404, 409, Aug. 6, 1975, 89 Stat. 404, 405.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–73, § 404, added reference to Guam and Virgin Islands.
Subsec. (e). Pub. L. 94–73, § 409, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973aa–1 of this title.

§ 1973k. Termination of listing procedures; basis for termination; survey or census by Director of the Census.

Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 1973d of this title whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title in such subdivision, and (b), with respect to examiners appointed pursuant to section 1973a(a) of this title, upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable. (As amended Pub. L. 94–73, title II, § 206, Aug. 6, 1975, 89 Stat. 402.)

AMENDMENTS

1975—Pub. L. 94–73 substituted "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973i of this title.

§ 1973l. Enforcement proceedings.

* * * * *

(c) Definitions.

* * * * *

(3) The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.

* * * * *

(e) Attorney's fees.

In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. (As amended Pub. L. 94–73, title II, § 207, title IV, § 402, Aug. 6, 1975, 89 Stat. 402, 404.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–73, § 207, added par. (3).
Subsec. (e). Pub. L. 94–73, § 402, added subsec. (e).

SUBCHAPTER I–B.—SUPPLEMENTAL PROVISIONS

§ 1973aa. Application of prohibition to other States; definition of "test or device".

(a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

* * * * *

(As amended Pub. L. 94–73, title I, § 102, Aug. 6, 1975, 89 Stat. 400.)

AMENDMENTS

1975—Subsec. (a), Pub. L. 94–73 struck out "Prior to August 6, 1975," and "as to which the provisions of section 1973b(a) of this title are not in effect by reason of determinations made under section 1973b(b) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2, 1973aa–3 of this title.

§ 1973aa–1. Residence requirements for voting.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973i of this title.

§ 1973aa–1a. Bilingual election requirements.

(a) Congressional findings and declaration of policy.

The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Prohibition of voting notices, forms, instructions, assistance, or other materials and ballots in English language only.

Prior to August 6, 1985, no State or political subdivision shall provide registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided*, That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which

comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language.

Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided,* That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Action for declaratory judgment permitting English-only materials.

Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) Definitions.

For purposes of this section, the term "language minorities" of "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage. (Pub. L. 89–110, title II, § 203, as added Pub. L. 94–73, title III, § 301, Aug. 6, 1975, 89 Stat. 402.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2, 1973aa–3 of this title.

§ 1973aa–2. Judicial relief; civil actions by the Attorney General; three-judge district court; appeal to Supreme Court.

Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 1973aa of this title, or (b) undertakes to deny the right to vote in any election in violation of section 1973aa–1 or 1973aa–1a of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of Title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall be to the Supreme Court. (Pub. L. 89–110, title II, § 204, formerly § 203, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317, renumbered and amended Pub. L. 94–73, title III, §§ 302, 303, title IV, § 406, Aug. 6, 1975, 89 Stat. 403, 405.)

AMENDMENTS

1975—Pub.L. 94–73 added reference to section 1973aa–1a of this title and substituted reference to section 2284 of Title 28 for reference to section 2282 of Title 28.

§ 1973aa–3. Penalty.

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973aa, 1973aa–1, or 1973aa–1a of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both. (Pub. L. 89–110, title II, § 205, formerly § 204, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317, renumbered and amended Pub. L. 94–73, title III, §§ 302, 304, Aug. 6, 1975, 89 Stat. 403.)

AMENDMENTS

1975—Pub.L. 94–73 added reference to section 1973aa–1a of this title.

§ 1973aa–4. Separability of provisions.

Section 205 of Pub.L. 89–110 was renumbered 206 by Pub.L. 94–73, title III, § 302, Aug. 6, 1975, 89 Stat. 403.

§ 1973aa–5. Survey to compile registration and voting statistics.

(a) Elections to House of Representatives and elections designated by United States Commission on Civil Rights.

Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 1973b(a) of this title are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) Prohibition against compulsion to disclose personal data; advice of rights.

In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

(c) Report to Congress.

The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) Confidentiality of information; penalties.

The provisions of section 9 and chapter 7 of Title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section. (Pub. L. 89–110, title II, § 207, as added Pub. L. 94–73, title IV, § 403, Aug. 6, 1975, 89 Stat. 404.)

SUBCHAPTER I–C.—EIGHTEEN-YEAR-OLD VOTING AGE

§ 1973bb. Enforcement of Twenty-Sixth Amendment.

(a) (1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this subchapter, which shall be heard and determined by a court of three judges in accordance with section 2284 of Title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both. (As amended Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Pub. L. 94–73 substituted provisions authorizing the Attorney General to institute proceedings to enforce twenty-sixth amendment, the jurisdiction of the district courts, and penalties for denial of rights secured by twenty-sixth amendment, for provisions relating to Congressional findings and prohibition of denial of right to vote on account of age.

§ 1973bb–1. Definitions.

As used in this subchapter, the term "State" includes the District of Columbia. (As amended Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Pub. L. 94–73 substituted definition of State for provisions prohibiting denial of right to vote because of age.

§§ 1973bb–2 to 1973bb–4. Repealed. Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.

Section 1973bb–2, Pub. L. 89–110, title III, § 303, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318, authorized the Attorney General to institute actions to enforce this subchapter, and provided for jurisdiction of district courts, appeals, and penalties for denial of rights secured by this subchapter. See now, section 1973bb of this title.

Section 1973bb–3, Pub. L. 89–110, title III, § 304, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319, defined "State". See section 1973bb–1 of this title.

Section 1973bb–4, Pub. L. 891–10, title III, § 305, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319, provided for effective date of this subchapter.

SUBCHAPTER I–D.—FEDERAL ABSENTEE VOTING ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 22, section 2504; title 39, sections 2401, 3627, 3684.

PART I.—RECOMMENDATION TO STATES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1973cc–11 of this title.

§ 1973cc. State enactment of absentee voting legislation.

The Congress expresses itself as favoring, and recommends that the several States take, immediate legislative or administrative action to enable every person in any of the following categories who is absent from the place of his voting residence to vote by absentee ballot in any primary, special, or general election held in his election district or precinct, if he is otherwise eligible to vote in that election:

(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

(Aug. 9, 1955, ch. 656, title I, § 101, 69 Stat. 584, amended June 18, 1968, Pub. L. 90–343, § 1, 82 Stat. 180.)

CODIFICATION

Section was formerly classified to section 1451 of Title 50, War and National Defense.

AMENDMENTS

1968—Pub. L. 90–343 consolidated into par. (3) the provisions of former pars. (3) and (4) and, in such consolidated par. (3), substituted provisions which served to extend the recommendations to the states as to absentee voter registration so as to include citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them for former provisions of par. (3) which served to include civilian employees of the United States in all categories serving outside the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by Congress, and provisions of former par. (4), which served to include members of religious groups and welfare agencies assisting mmebers of the Armed Forces, who are officially attached to and serving with the Armed Forces and their spouses and dependents.

SHORT TITLE

Section 1 of act Aug. 9, 1955, provided that: "This Act [which enacted this subchapter and repealed sections 301–303, 321–331, 341, and 351–355 of Title 50] may be cited as "The Federal Voting Assistance Act of 1955'."

SEPARABILITY OF PROVISIONS

Section 306 of act Aug. 9, 1955, provided that: "If any provision or this Act [this subchapter] or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act [this subchapter] and the applicability of such provision to other persons or circumstances shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973cc–1, 1973cc–3 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1–1105 of the District of Columbia Code.

§ 1973cc–1. Balloting procedures.

To afford ample opportunity for persons covered by section 1973cc of this title to vote for Federal, State and local officials and to use the absentee balloting procedures to the greatest extent possible, it is recommended that each of the several States—

(1) accept as applications for absentee ballots under such States' absentee balloting laws, as applications for registration under such States' election laws, and as sources of information to implement State absentee balloting laws, the form of post card (when duly executed by a person covered by section 1973cc of this title) provided pursuant to this subchapter;

(2) waive registration of persons covered by section 1973cc of this title, who, by reason of their service, have been deprived of an opportunity to register;

(3) accept the post card application provided pursuant to this subchapter as a simultaneous application for registration and for ballot;

(4) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

(5) make provision for persons eligible to register and qualified to vote, who have been honorably discharged from the Armed Forces, or have terminated their service or employment, too late to register at the time when, and at the place where, registration is required, to vote at the election next ensuing after such discharge or termination;

(6) authorize and instruct the State or local election officials, upon receipt of the post card application provided pursuant to this subchapter, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope;

(7) provide that there be printed across the face of each envelope in which a ballot is sent two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope, and with the words "Official Election Balloting Material—via Air Mail", or similar language, between the bars; that there be printed in the upper right corner of each such envelope, in a box, the words "Free of U.S. Postage, Including Air Mail"; that all printing on the face of each such envelope be in red; and that there be printed in red in the upper left corner of each State ballot envelope an appropriate inscription or blanks for return address of sender;

(8) provide that the gummed flap of the State envelope supplied for the return of the ballot be separated by a wax paper or other appropriate protective insert from the remaining balloting material and that there be included in State voting instructions a procedure to be followed by absentee voters, such as notation of the facts on the back of envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material;

(9) reduce in size and weight of paper, as much as possible, envelopes, ballots, and instructions for voting procedure;

(10) for the purposes of this subchapter, authorize oaths required by State law to be administered and attested by any commissioned officer in the active service of the Armed Forces, any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce, the head of any department or agency of the United States, any civilian official empowered by State or Federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States;

(11) include in State voting instructions express information concerning the type or types of writing instruments which may be used to mark the absentee ballot, preferably pen or indelible pencil; and

(12) provide that absentee ballots will be available for mailing to the applicant as soon as practicable before the last date on which such ballot will be counted.

(Aug. 9, 1955, ch. 656, title I, § 102, 69 Stat. 584, amended June 18, 1968, Pub. L. 90–344, § 1(1), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1452 of Title 50, War and National Defense.

AMENDMENTS

1968—Cl. (10). Pub. L. 90–344 added heads of departments or agencies of the United States and civilian employees designated by the head of any department or agency of the United States to the recommended list of persons authorized to administer and attest to oaths as required by state law.

§ 1973cc–2. Statistical data.

It is recommended that each of the several States make available to the officer designated by the President under section 1973cc–11 of this title appropriate statistical data to assist him in compiling comprehensive information of operations under this subchapter. (Aug. 9, 1955, ch. 656, title I, § 103, 69 Stat. 585.)

CODIFICATION

Section was formerly classified to section 1453 of Title 50, War and National Defense.

§ 1973cc–3. Personnel residing on military installations; acquisition of legal residence for voting purposes.

It is recommended that each of the several States permit any person covered by section 1973cc(1) of this title who is otherwise fully qualified to register and vote in the State to acquire legal residence in that State, notwithstanding his residence on a military installation, and to register and vote in local, State, and national elections. (Aug. 9, 1955, ch. 656, title I, § 104, as added June 18, 1968, Pub. L. 90–344, § 1(2), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1454 of Title 50, War and National Defense.

PART II.—RESPONSIBILITIES OF FEDERAL GOVERNMENT

§ 1973cc–11. Presidential designee to coordinate and facilitate actions to discharge Federal responsibilities; report.

The President is authorized to designate, with provision for redelegation, the head (hereinafter referred to as the Presidential designee) of any executive department or agency to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under this subchapter. The Presidential designee is authorized to request from other executive departments and agencies such assistance as he deems necessary to effectuate the purposes of this subchapter, and shall submit a report to the President and to the Congress in odd-numbered years. Such report shall cover the administration of Federal responsibilities authorized under this part, the progress of the States in carrying out the recommendations contained in part I of this subchapter, statistical data relating to absentee voting, and such other information as the Presidential designee may consider appropriate. (Aug. 9, 1955, ch. 656, title II, § 201, 69 Stat. 585.)

CODIFICATION

Section was formerly classified to section 1451 of Title 50, War and National Defense.

EX. ORD. NO. 10646. DESIGNATION OF SECRETARY OF DEFENSE AS COORDINATOR

Ex. Ord. No. 10646, Nov. 22, 1955, 20 F.R. 8681, provided:

1. The Secretary of Defense is hereby designated as the official to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under the Federal Voting Assistance Act of 1955 [this subchapter].

2. In order to effectuate the purposes of the said act, the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this order to any person or persons within the Department of Defense.

DWIGHT D. EISENHOWER

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973cc–2 of this title.

§ 1973cc–12. Current absentee voting information.

The Presidential designee shall request, annually or more often when appropriate, each State to furnish him with current absentee voting information for such State. Such information shall include election dates, officers to be elected, constitutional amendments, and other proposals to be voted on, absentee registration and voting procedures, and other relevant data. As soon as possible after receipt of such information, he shall furnish it to the departments and agencies of the executive branch affected by this subchapter. Such departments and agencies are authorized to reprint and distribute such information to the extent necessary. (Aug. 9, 1955, ch. 656, title II, §202, 69 Stat. 586.)

CODIFICATION

Section was formerly classified to section 1462 of Title 50, War and National Defense.

§ 1973cc–13. Cooperation of Government officials; drafts of state legislation; printing and transmitting of post cards.

All Government officials shall, to the extent practicable and compatible with their primary responsibilities, cooperate with the Presidential designee in carrying out the purposes of this subchapter. All such officials shall, as far as practicable, take all reasonable measures to expedite, transmit, deliver, and return post cards, ballots, envelopes, and instructions for voting procedures mailed to or by persons to whom this subchapter is applicable. In addition, and as requested by the Presidential designee, it shall be the duty of—

(1) the Attorney General to cooperate and advise with the Council of State Governments in the formulation of drafts of State legislation designed to implement the recommendations for State action contained in this subchapter;

(2) the Administrator of General Services to cause to be printed and distributed post cards for use in accordance with the provisions of this subchapter. Such post cards shall be delivered by the department or agency concerned to persons to whom this subchapter is applicable for use at any general election at which electors for President and Vice President or Senators and Representatives are to be voted for. For use in such elections, post cards shall be in the hands of the persons concerned not later than August 15 before the election if they are outside the territorial limits of the United States and not later than September 15 before the election if they are inside the territorial limits of the United States. To the extent practicable and compatible with other operations, post cards shall also be made available at appropriate times to such persons for use in other general, primary, and special elections; and

(3) the Postmaster General and the heads of the departments and agencies concerned, where practicable and compatible with their operations, to facilitate the transmission of balloting material to and from persons to whom this subchapter is applicable. Ballots executed outside the United States by persons to whom this subchapter is applicable shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

(Aug. 9, 1955, ch. 656, title II, § 203, 69 Stat. 586, amended June 18, 1968, Pub. L. 90–344, § 1(3), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1463 of Title 50, War and National Defense.

AMENDMENTS

1968—C1. (2). Pub. L. 90–344 substituted provisions that post cards shall be delivered and in the hands of the persons concerned not later than August 15 if they are without the territorial limits of the United States and not later than September 15 if they are within the territorial limits of the United States for provisions that such post cards shall, wherever practicable and compatible with other operations, be made available to the persons concerned by the specified dates.

§ 1973cc–14. Form and content of post card application.

The form of the Federal post card application shall be as follows:

(a) The cards shall be approximately nine and one-half by four and one-eighth inches in size.

(b) Upon one side, perpendicular to the long dimension of the card, there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT

State or Commonwealth of _____
(Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(GENERAL) (PRIMARY) * (SPECIAL) ELECTION
(Strike out inapplicable words)

(2) * If a ballot is requested for a primary election, print your political party affiliation or preference in this box: ☐

(If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, eligible to vote in above State, and am:

a. A member of the Armed Forces of the United States ☐
b. A member of the merchant marine of the United States ☐
c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia ☐
d. A spouse or dependent of a person listed in (a) or (b) above ☐
e. A spouse or dependent residing with or accompanying a person described in (c) above ☐

(4) I was born on _____
(Day) (Month) (Year)

(5) For ____ years preceding the above election my home (not military) residence in the above State has been _____
(Street and number or rural route, etc.)

in the county or parish of _____
The voting precinct or election district for this residence is _____
(Enter if known)

(6) Remarks: _____

(7) Mail my ballot to the following official address: For those assigned in the U.S.:

_____
(Unit (Co., Sq., Trp., Bn., etc.), Govt. Agency, or Office)

_____
(Military Base, Station, Camp, Fort, Ship, Airfield, etc.)

For those assigned elsewhere:

_____
(APO or FPO number)

(8) I am NOT requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address:

(9) _____
(Signature or person requesting ballot)

(10) _____
(Full name, typed or printed with rank or grade, and service number)

(11) Subscribed and sworn to before me on _____
_____
(Day, month, and year)

_____
(Signature of official administering oath)

_____
(Typed or printed name of official administering oath)

_____
(Title or rank, service number, and organization of administering official)

INSTRUCTIONS

A. Before filling out this form see your voting officer in regard to the voting laws of your State and absentee registration and voting procedure.
B. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.
C. Address card to proper State official. Your voting officer or commanding officer will furnish you his title and address.
D. Mail card as soon as your State will accept your application.
E. NO postage is required for the card.

(c) Upon the other side of the card there shall be printed in red type the following:

FILL OUT BOTH SIDES OF THE CARD

_____ } FREE of U.S. Postage Including Air Mail
_____ }
_____ } Official Mailing Address
_____ }
_____ }

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: _____
(Title of Election Official)

_____
(County or Township)

_____
(City or Town, State)

(Aug. 9, 1955, ch. 656, title II, § 204, 69 Stat. 586, amended June 18, 1968, Pub. L. 90–343, § 2, 82 Stat. 181; June 18, 1968, Pub. L. 90–344, § 1(4)–(6), 82 Stat. 182.)

CODIFICATION

Section was formerly classified to section 1464 of Title 50, War and National Defense.

AMENDMENTS

1968—Subsec. (b)(3)(c). Pub. L. 90–343, § 2, substituted "A citizen of the United States temporarily residing outside of the territorial limits of the United

States and the District of Columbia" for "A member of a religious or welfare organization assisting servicemen".

Subsec. (b)(3)(d). Pub. L. 90–343, § 2, substituted "A spouse or a dependent of a person listed in (a) or (b) above" for "A civilian employed by the United States Government outside the United States (continental)".

Subsec. (b)(3)(e). Pub. L. 90–343, § 2, substituted "A spouse or dependent residing with or accompanying a person described in (c) above" for "A spouse or dependent of a person listed in (a), (b), or (c) above."

Subsec. (b)(3)(f). Pub. L. 90–343, § 2, struck out subsec. (b)(3)(f) which made provision for a spouse or dependent residing with a civilian employed by the United States Government outside of the (continental) United States.

Subsec. (b)(5). Pub. L. 90–344, § 1(4), added the provision for insertion of the applicant's county or parish.

Subsec. (b)(7). Pub. L. 90–344, § 1(5), substituted provisions differentiating between the style of address for persons assigned in the United States and persons assigned eleswhere for provisions setting out a single style of address for all applicants.

Subsec. (c). Pub. L. 90–344, § 1(6), substituted provisions for the official mailing address of the applicant for provisions for the name, unit, government agency, or office, military base, station, ship, or office, street number, APO or FPO number, and city, postal zone, and state of the applicant.

§ 1973cc–15. Post card for election for Members of Congress.

The previously authorized Federal post card form shall be utilized prior to and in connection with the election for Members of Congress next ensuing after August 9, 1955, and the Presidential designee shall initiate action to make such forms available to departments and agencies having a need therefor. Thereafter only the post card form authorized in this subchapter shall be utilized. (Aug. 9, 1955, ch. 656, title II, § 205, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1465 of Title 50, War and National Defense.

PART III.—GENERAL PROVISIONS

§ 1973cc–21. Definitions.

As used in this subchapter—

(1) The term "Armed Forces" means the uniformed services as defined in section 231 of Title 37.

(2) The term "members of the merchant marine of the United States" means persons (other than members of the Armed Forces) employed as officers or members of crews of vessels documented under the laws of the United States, or of vessels owned by the United States, or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than members of the Armed Forces) enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or members of crews of any such vessels; but does not include persons so employed, or enrolled for such employment or for training for such employment, or maintained for such emergency relief service, on the Great Lakes or the inland waterways.

(3) The term "dependent" means any person who is in fact a dependent.

(Aug. 9, 1955, ch. 656, title III, § 301, 69 Stat. 588.)

REFERENCES IN TEXT

Section 231 of Title 37, referred to in subd. (1), was repealed by Pub. L. 87–649, § 14, Sept. 7, 1962, 76 Stat. 499, and is now covered by sections 101, 401, and 420 of Title 37, Pay and Allowances of the Uniformed Services.

CODIFICATION

Section was formerly classified to section 1471 of Title 50, War and National Defense.

DISTRICT OF COLUMBIA

Section 2(c) of Pub. L. 87–389, Oct. 4, 1961, 75 Stat. 820, provided that: "For the purposes of the Federal Voting Assistance Act of 1955 (69 Stat. 584) [this subchapter] the word 'State' shall be deemed to include the District of Columbia."

§ 1973cc–22. Free postage.

Official post cards, ballots, voting instructions, and envelopes referred to in this subchapter, whether transmitted individually or in bulk, shall be free of postage, including air-mail postage, in the United States mails. (Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc–23. Prevention of fraud and coercion.

Every individual concerned with the administration of this subchapter shall take all necessary steps to prevent fraud, to protect voters against coercion of any sort, and to safeguard the integrity and secrecy of ballots cast. (Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc–24. Acts done in good faith.

No act done in good faith under this subchapter by a person serving in or with the Federal or military service of the United States in the exercise of his judgment as to what was practicable and compatible with military, merchant marine, or other Federal governmental operations, shall constitute a violation of any provision of law relating to the elective franchise. (Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc–25. Undue influence; free discussion.

It shall be unlawful for any commissioned, noncommissioned, warrant, or petty officer in the Armed Forces (1) to attempt to influence any member of the Armed Forces to vote or not to vote for any particular candidate, or (2) to require any member of the Armed Forces to march to any polling place or place of voting, but nothing in this subchapter shall be deemed to prohibit free discussion regarding political issues or candidates for public office. (Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1475 of Title 50, War and National Defense.

§ 1973cc–26. Appropriations.

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this subchapter. (Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1476 of Title 50, War and National Defense.

SUBCHAPTER I–E.—VOTING RIGHTS OF OVERSEAS CITIZENS [NEW]

§ 1973dd. Definitions.

For the purposes of this subchapter, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 94–203, § 2, Jan. 2, 1976, 89 Stat. 1142.)

EFFECTIVE DATE

Section 8 of Pub. L. 94–203 provided that: "The provisions of the Act [this subchapter] shall apply with respect to any Federal election held on or after January 1, 1976."

SHORT TITLE

Section 1 of Pub. L. 94–203 provided: "That this Act [enacting this subchapter and enacting the provisions set out as a note under this section] may be cited as the 'Overseas Citizens Voting Rights Act of 1975'."

§ 1973dd–1. Qualifications for registration and vote by absentee ballot.

Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any Federal election in the State, or any election district of such State, in which he was last domiciled immediately prior to his departure from the United States and in which he could have met all qualifications (except any qualification relating to minimum voting age) to vote in Federal elections under any present law, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he has complied with all applicable State or district qualifications and requirements, which are consistent with this subchapter, concerning absentee registration for, and voting by, absentee ballots;

(2) he does not maintain a domicile, is not registered to vote, and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(3) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

(Pub. L. 94–203, § 3, Jan. 2, 1976, 89 Stat. 1142.)

EFFECTIVE DATE

Section applicable to any Federal election held on or after Jan. 1, 1976, see section 8 of Pub. L. 94–203, set out as a note under section 1973dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973dd–2, 1973dd–3 of this title.

§ 1973dd–2. State provisions for registration and vote by absentee ballot.

(a) Each State shall provide by law for the absentee registration or other means of absentee qualification of all citizens residing outside the United States and entitled to vote in a Federal election in such State pursuant to section 1973dd–1 of this title whose application to vote in such election is received by the appropriate election official of such State not later than thirty days immediately prior to any such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing outside the United States who—

(1) are entitled to vote in such State pursuant to section 1973dd–1 of this title;

(2) have registered or otherwise qualified to vote under subsection (a) of this section; and

(3) have returned such ballots to the appropriate election official of such State in sufficient time so that such ballot is received by such election official not later than the time of closing of the polls in such State on the day of such election.

(Pub. L. 94–203, § 4, Jan. 2, 1976, 89 Stat. 1143.)

EFFECTIVE DATE

Section applicable to any Federal election held on or after Jan. 1, 1976, see section 8 of Pub. L. 94–203, set out as a note under section 1973dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973dd–3 of this title.

§ 1973dd–3. Enforcement by Attorney General.

(a) Jurisdiction of courts.

Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 1973dd–1 of this title or fails to take any action required by section 1973dd–2 of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of Title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Depriving or attempting to deprive persons of secured rights; penalties.

Whoever knowingly or willfully shall deprive or attempt to deprive any person of any right secured by this subchapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Giving or conspiring to give false information; payment or acceptance of money; penalties.

Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of establishing his eligibility to register, qualify, or vote under this subchapter, or conspires with another individual for the purpose

of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this subchapter, or pays, or offers to pay, or accepts payment either for registration to vote or for voting shall be fined not more than $5,000, or imprisoned not more than five years, or both. (Pub. L. 94–203, § 5, Jan. 2, 1976, 89 Stat. 1143.)

EFFECTIVE DATE

Section applicable to any Federal election held on or after Jan. 1, 1976, see section 8 of Pub. L. 94–203, set out as a note under section 1973dd of this title.

§ 1973dd–4. Separability of provisions.

If any provision of this subchapter is held invalid, the validity of the remainder of the subchapter shall not be affected. (Pub. L. 94–203, § 6, Jan. 2, 1976, 89 Stat. 1143.)

EFFECTIVE DATE

Section applicable to any Federal election held on or after Jan. 1, 1976, see section 8 of Pub. L. 94–203, set out as a note under section 1973dd of this title.

§ 1973dd–5. State registration requirements and voting practices.

Nothing in this subchapter shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election; or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this subchapter.

(Pub. L. 94–203, § 7, Jan. 2, 1976, 89 Stat. 1144.)

EFFECTIVE DATE

Section applicable to any Federal election held on or after Jan. 1, 1976, see section 8 of Pub. L. 94–203, set out as a note under section 1973dd of this title.

Chapter 20A.—CIVIL RIGHTS COMMISSION

§ 1975a. Rules of procedure.

* * * * *

(j) Witness fees.

A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

* * * * *

(As amended Pub. L. 92–496, § 1, Oct. 14, 1972, 86 Stat. 813.)

AMENDMENTS

1972—Subsec. (j). Pub. L. 92–496 substituted provisions that witnesses attending sessions of the Commission shall be paid fees and mileage in the same way as witnesses attending courts of the United States for provisions prescribing $6 for each day of attendance and 10 cents per mile for travel and subsistence allowance of $10 per day.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1975d of this title.

§ 1975b. Compensation of members.

(a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of Title 5.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of subchapter I of chapter 57 of Title 5. (As amended Pub. L. 92–496, § 2, Oct. 14, 1972, 86 Stat. 813.)

CODIFICATION

In subsec. (a), "section 5703 of Title 5" was substituted for "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In subsec. (b), "subchapter I of chapter 57 of Title 5" was substituted for "the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–842; 63 Stat. 166)" on the authority cited above.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–496 substituted provisions prescribing daily allowances equal to the compensation payable at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, Government Organization and Employees prorated on a daily basis for each day spent in the work of the Commission, for provisions prescribing $100 per day for each day spent in the work of the Commission.

§ 1975c. Duties; reports; termination.

(a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution, because of race, color, religion, sex, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin or in the administration of justice;

(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

* * * * *

(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President

shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than the last day of fiscal year 1978.

* * * * *

(As amended Pub. L. 92–496, §§ 3, 4, Oct. 14, 1972, 86 Stat. 813, 814.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–496, § 3, added deprivation of voting rights on the basis of sex to the investigatory functions of the Commission.

Subsec. (a)(2). Pub. L. 92–496, § 3, added denial of equal protection on the basis of sex to the legal developments to be studied by the Commission.

Subsec. (a)(3). Pub. L. 92–496, § 3, added denial of equal protection on the basis of sex to the laws and policies of the Federal Government to be appraised by the Commission.

Subsec. (a)(4). Pub. L. 92–496, § 3, added denial of equal protection of the laws on the basis of sex to the information to be obtained by the Commission to serve as a national clearinghouse.

Subsec. (b). Pub. L. 92–496, § 4, substituted "the last day of fiscal year 1978" for "January 31, 1973".

§ 1975d. Powers.

(a) Staff director; appointment and compensation; personnel and services.

There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of staff director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of Title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of Title 5.

* * * * *

(As amended Pub. L. 92–496, § 5, Oct. 14, 1972, 86 Stat. 814.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–496 substituted provisions requiring services to be procured according to section 3109 of Title 5, Government Organization and Employees, at rates for individuals not in excess of the daily equivalent payable for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of Title 5, for provisions requiring services to be procured according to section 15 of Act of August 2, 1946, at rates for individuals not exceeding $100 per diem.

COMPENSATION OF STAFF DIRECTOR FOR COMMISSION

Annual rate of basic pay at Level V of the Executive Schedule for position of Staff Director, Commission on Civil Rights, see section 5316(114) of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1975a, 6106 of this title.

§ 1975e. Authorization of appropriations.

For the purposes of carrying out this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1973, the sum of $5,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of $7,000,000. (As amended Pub. L. 92–64, Aug. 4, 1971, 85 Stat. 166; Pub. L. 92–496, § 6, Oct. 14, 1972, 86 Stat. 814.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 85–315. For distribution in the Code, see Short Title note set out under section 1975 of this title.

AMENDMENTS

1972—Pub. L. 92–496 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1973. the sum of $5,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of $7,000,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000 and for each fiscal year thereafter until January 31, 1973, the sum of $4,000,000.

1971—Pub. L. 92–64 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $4,000,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $3,400,000.

Chapter 21.—CIVIL RIGHTS

SUBCHAPTER VI.—EQUAL EMPLOYMENT OPPORTUNITIES

Sec.
2000e–16. Employment by Federal Government [New].
(a) Discriminatory practices prohibited; employees or applicants for employment subject to coverage.
(b) Civil Service Commission; enforcement powers; issuance of rules, regulations, etc.; annual review and approval of national and regional equal employment opportunity plans; review and evaluation of equal employment opportunity programs and publication of progress reports; consultations with interested parties; compliance with rules, regulations, etc.; contents of national and regional equal employment opportunity plans; authority of Librarian of Congress.
(c) Civil action by employee or applicant for employment for redress of grievances; time for bringing of action; head of department, agency, or unit as defandant.
(d) Section 2000e–5(f) through (k) of this title applicable to civil actions.
(e) Government agency or official not relieved of responsibility to assure nondiscrimination in employment or equal employment opportunity.
2000e–17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan [New].

SUBCHAPTER II.—PUBLIC ACCOMMODATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 section 1221.

SUBCHAPTER III.—PUBLIC FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 section 1221.

SUBCHAPTER IV.—PUBLIC EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1656, 1720.

§ 2000c. Definitions.

As used in this subchapter—

* * * * *

(b) "Desegregation" means the assignment of students of public schools and within such schools without regard to their race, color, religion, sex or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

* * * * *

(As amended Pub. L. 92–318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 included the term "sex" after the word "religion".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000b of this title; title 20 sections 1720, 1754.

§ 2000c–6. Civil actions by the Attorney General.

(a) Complaint; certification; notice to school board or college authority; institution of civil action; relief requested; jurisdiction; transportation of pupils to achieve racial balance; judicial power to insure compliance with constitutional standards; impleading additional parties as defendants.

Whenever the Attorney General receives a complaint in writing—

* * * * *

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, sex or national origin,

* * * * *

(As amended Pub. L. 92–318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92–318 included the term "sex" after the word "religion".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 sections 1656, 1754.

§ 2000c–9. Classification and assignment.

Nothing in this subchapter shall prohibit classification and assignment for reasons other than race, color, religion, sex or national origin. (As amended Pub. L. 92–318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Pub. L. 92–318 included the term "sex" after the word "religion".

SUBCHAPTER V.—FEDERALLY ASSISTED PROGRAMS

CROSS REFERENCE

Age discrimination in employment, see section 621 et seq. of Title 29, Labor.

Age discrimination in federally assisted programs, see section 6101 et seq. of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3766, 5304, 5309, 5891 of this title; title 15 section 775; title 20 sections 1221, 1602, 1605, 1617, 1717; title 23 sections 117, 324; title 29 section 991; title 31 section 1242; title 49 sections 1604, 1608.

§ 2000d–1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to congressional committees; effective date of administrative action.

EXECUTIVE ORDER NO. 11247

Ex. Ord. No. 11247, Sept. 24, 1965, 30 F.R. 12327, set out as a note under this section, which related to the enforcement of coordination of nondiscrimination in federally assisted programs, was superseded by Ex. Ord. No. 11764, Jan. 21, 1974, 39 F.R. 2575, set out as a note under this section.

EX. ORD. NO. 11764. COORDINATION OF ENFORCEMENT

Ex. Ord. No. 11764, Jan. 21, 1974, 39 F.R. 2575 provided:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–4 [this subchapter], prohibits discrimination on the ground of race, color, or national origin in programs and activities receiving Federal financial assistance. The agencies which extend such assistance have primary responsibility for effectuating title VI. Although the Attorney General is presently responsible for coordinating enforcement of title VI, it is appropriate to clarify and broaden the role of the Attorney General with respect to title VI enforcement.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including section 301 of title 3 of the United States Code, it is ordered as follows:

SECTION 1. The Attorney General shall coordinate enforcement by Federal departments and agencies of Title VI of the Civil Rights Act of 1964. He shall prescribe standards and procedures regarding implementation of title VI and shall assist the departments and agencies in accomplishing effective implementation. He may adopt such rules and regulations and issue such orders as he deems necessary to carry out his functions under this order.

SEC. 2. (a) Each Federal department and agency shall cooperate with the Attorney General in the performance of his functions under this order and shall furnish him such reports and information as he may request.

(b) Title VI compliance reviews and investigations shall be conducted by the departments and agencies in accord with standards and procedures established by the Attorney General.

(c) Whenever a department or agency ascertains noncompliance or probable noncompliance with title VI, steps to obtain compliance by voluntary means or to enforce title VI requirements shall be carried out in accord with standards and procedures established by the Attorney General.

SEC. 3. The authority vested in the President by section 602 of title VI, 42 U.S.C. 2000d–1 [this section], to approve rules, regulations, and orders of general applicability is hereby delegated to the Attorney General.

SEC. 4. Executive Order No. 11247 of September 24, 1965, is hereby superseded.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2930c, 2971c, 2985g, 5057 of this title; title 29 section 991.

§ 2000d–2. Judicial review; Administrative Procedure Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2930c, 2971c, 2985g, 5057, 5672 of this title; title 29 section 991.

§ 2000d–5. Prohibited deferral of action on applications by local educational agencies seeking federal funds for alleged noncompliance with Civil Rights Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1602.

SUBCHAPTER VI.—EQUAL EMPLOYMENT OPPORTUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3766, 5304 of this title; title 5 section 6108; title 20 section 1221.

§ 2000e. Definitions.

For the purposes of this subchapter—

(a) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of Title 5), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of Title 26, except that during the first year after March 24, 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

* * * * *

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972, or (B) fifteen or more thereafter, and such labor organization—

* * * * *

(f) The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.

* * * * *

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959, and further includes any governmental industry, business, or activity.

* * * * *

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(As amended Pub. L. 92–261, § 2, Mar. 24, 1972, 86 Stat. 103.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–261, § 2(1), included within the term "person" governments, governmental agencies, and political subdivisions.

Subsec. (b). Pub. L. 92–261, § 2(2), substituted "fifteen or more employees" for "twenty-five or more employees", extended coverage to include State and local governments, excepted from coverage any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in section 2102 of Title 5, and substituted provisions under which persons having fewer than twenty-five employees during the first year after March 24, 1972, were not to be considered employers, for provisions under which persons having fewer than a specified number of employees during the first year after the effective date of this section, and the second and third years after such date were not to be considered employers.

Subsec. (c). Pub. L. 92–261, § 2(3), struck out from the term "employment agency" exemption from coverage for agencies of the United States, States or political subdivisions of States, other than the United States Employment Service and the system of State and local employment services receiving Federal assistance.

Subsec. (e). Pub. L. 92–261, § 2(4), substituted provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as twenty-five or more during the first year after March 24, 1972, and fifteen or more thereafter, for provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as one hundred or more during the first year after the effective date of this section, seventy-five or more during the second year after such date, fifty or more during the third year after such date, and twenty-five or more thereafter.

Subsec. (f). Pub. L. 92–261, § 2(5), added the provisions enumerating persons excepted from the term "employee."

Subsec. (h). Pub. L. 92–261, § 2(6), added ", and further includes any governmental industry, business, or activity" following "Labor-Management Reporting and Disclosure Act of 1959".

Subsec. (j). Pub. L. 92–261, § 2(7), added subsec. (j).

SHORT TITLE

Section 1 of Pub. L. 92–261 provided: "That this Act [which enacted sections 2000e–16 and 2000e–17 of this title, amended sections 5108 and 5314–5316 of Title 5 and sections 2000e to 2000e–6, 2000e–8, 2000e–9, 2000e–13, and 2000e–14 of this title, and enacted provisions set out as a note under section 2000e–5 of this title] may be cited as the 'Equal Employment Opportunity Act of 1972'."

EX. ORD. NO. 11126. INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN; CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

Ex. Ord. No. 11126, Nov. 1, 1963, 28 F.R. 11717, as amended by Ex. Ord. No. 11221, May 6, 1965, 30 F.R. 6427, provided:

The President's Commission on the Status of Women, established by Executive Order No. 10980 of December 14, 1961, has in fulfillment of its responsibilities, submitted a report concerning the steps that should be taken to further the effort to achieve the full participation of women in American life.

Enhancement of the quality of American life, as envisioned by the Commission's report, can be accomplished only through concerted action by both public and private groups, through coordinated action within the Federal Government, and through action by States, communities, educational institutions, voluntary organizations, employers, unions, and individual citizens.

In order to assure effective and continuing leadership in advancing the status of women, it is deemed appropriate to establish an interdepartmental committee and a citizens' advisory council on the status of women.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN

SECTION 101. (a) There is hereby established the interdepartmental Committee on the Status of Women (hereinafter referred to as the "Committee"), which shall be composed of the Secretary of Labor, who shall be the Chairman of the Committee, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Chairman of the Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Economic Opportunity, and an Assistant Secretary of Labor to be designated by the Secretary of Labor, all ex officio. The Chairman may designate a Vice-Chairman of the Committee from its membership, and the Director of the Women's Bureau of the Department of Labor shall serve as Executive Vice-Chairman of the Committee, and shall be an ex officio member thereof.

(b) When any matter especially related to the area of responsibility of any Federal department or agency, the head of which is not a member of the Committee, is to be considered by the Committee, the Chairman of the Committee shall invite the head of such department or agency to participate in the deliberations of the Committee with respect to such matter and to be a temporary member of the Committee during such deliberations.

SEC. 102. The Committee shall—

(1) Maintain a continuing review and evaluation of the progress of Federal departments and agencies in advancing the status of women.

(2) Serve as a clearing house for information as to the activities being directed toward, and the progress being made in, improving conditions of special interest to women.

(3) Stimulate cooperation and the sharing of data, views, and information among Federal agencies, State and local governments, State commissions on the status of women, and public and private organizations having responsibilities and interests in areas of special concern to women.

(4) Encourage research on factors affecting the status of women in the areas of education, home and community activities, employment, social insurance, taxes, civil and political rights, labor legislation, and related matters.

(5) Exchange information with the Citizens' Advisory Council on the Status of Women, established by Part II of this order, on progress toward advancing the status of women and on new developments requiring consideration by the Council and the Committee.

SEC. 103. Annually the Committee, after consultation with the Citizens' Advisory Council, shall transmit a report to the President concerning the status of women.

PART II—CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

SEC. 201. There is hereby established the Citizens' Advisory Council on the Status of Women (hereinafter referred to as the "Council"), which shall be composed of 20 members appointed by the President, one of whom he shall designate to serve as Chairman. The Council shall meet at the call of the Chairman of the Committee, but not less than twice a year. Members of the Council shall serve without compensation from the United States.

SEC. 202. The Council shall—

(1) Serve as a primary means for suggesting and stimulating action with private institutions, organizations, and individuals working for improvement of conditions of special concern to women.

(2) Review and evaluate progress of organizations in furthering the full participation of women in American life.

(3) Advise and assist the Committee in the evaluation of total progress made and recommend to the Committee, as necessary, action to accelerate such progress.

(4) Consider the effect of new developments on methods of advancing the status of women and recommend appropriate action to the Committee.

PART III—FINANCING AND ADMINISTRATION

SEC. 301. The departments the heads of which are, under Section 101(a) of this order, members of the Committee and the Civil Service Commission shall, as may be necessary, furnish assistance to the Committee in accordance with Section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691). To the extent practical and not inconsistent with law, (1) all Federal departments and agencies shall cooperate with the Committee and the Council and furnish them such information and assistance as may be necessary for the performance of their functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies and other necessary assistance, facilities, and services for the Committee and Council (including travel expenses and per diem in lieu of subsistence for members of the Council).

JOHN P. KENNEDY.

EXTENSION OF TERM OF CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

Term of the Citizens' Advisory Council on the Status of Women extended until Jan. 5, 1977, unless otherwise sooner terminated, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of Title 5, Government Organization and Employees.

EX. ORD. NO. 11478. EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831, provided:

* * * * *

SEC. 8. This Order shall be applicable to the United States Postal Service and to the Postal Rate Commission established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

§ 2000e–1. Subchapter not applicable to employment of aliens outside State and individuals for performance of activities of religious corporations, associations, educational institutions, or societies.

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. (As amended Pub. L. 92–261, § 3, Mar. 24, 1972, 86 Stat. 103.)

AMENDMENTS

1972—Pub. L. 92–261 struck out the exemption for the employment of individuals engaged in educational activities of nonreligious educational institutions.

§ 2000e–2. Unlawful employment practices.

(a) Employer practices.

It shall be an unlawful employment practice for an employer—

* * * * *

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

* * * * *

(c) Labor organization practices.

It shall be an unlawful employment practice for a labor organization—

* * * * *

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

* * * * *

(As amended Pub. L. 92–261, § 8(a), (b), Mar. 24, 1972, 86 Stat. 109.)

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92–261, § 8(a), added "or applicants for employment" following "his employees".

Subsec. (c)(2). Pub. L. 92–261, § 8(b), added "or applicants for membership" following "membership".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e–5 of this title.

§ 2000e–3. Other unlawful employment practices.

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings.

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception.

It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment. (As amended Pub. L. 92–261, § 8(c), Mar. 24, 1972, 86 Stat. 109.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–261, § 8(c)(1), added provision making it an unlawful employment practice for a joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against the specified individuals.

Subsec. (b). Pub. L. 92–261, § 8(c)(2), added provisions making prohibitions applicable to joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, and notices or advertisements of such joint labor-management committees relating to admission to, or employment in, any program established to provide apprenticeship or other training.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e–5 of this title.

§ 2000e–4. Equal Employment Opportunity Commission.

(a) Creation; composition; political representation; appointment; term; vacancies; Chairman and Vice Chairman; duties of Chairman; appointment of personnel; compensation of personnel.

There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session

of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b) of this section, shall appoint, in accordance with the provisions of Title 5, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, relating to classification and General Schedule pay rates: *Provided,* That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of Title 5.

(b) General Counsel; appointment; term; duties; representation by attorneys and Attorney General.

(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 2000e–5 and 2000e–6 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this subchapter.

(c) Exercise of powers during vacancy; quorum.

A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(d) Seal; judicial notice.

The Commission shall have an official seal which shall be judicially noticed.

(e) Reports to Congress and the President.

The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken and the moneys it has disbursed. It shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(f) Principal and other offices.

The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this subchapter.

(g) Powers of Commission.

The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this subchapter such technical assistance as they may request to further their compliance with this subchapter or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this subchapter, to assist in such effectuation by conciliation or such other remedial action as is provided by this subchapter;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this subchapter and to make the results of such studies available to the public;

(6) to intervene in a civil action brought under section 2000e–5 of this title by an aggrieved party against a respondent other than a government, governmental agency or political subdivision.

* * * * *

(As amended Pub. L. 92–261, § 8(d)–(f), Mar. 24, 1972, 88 Stat. 109, 110; Pub. L. 93–608, § 3(1), Jan. 2, 1975, 88 Stat. 1972.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (b)(1) of this section, probably means the date of enactment of Pub. L. 92–261, which was approved March 24, 1972.

CODIFICATION

The amendment of this section by Pub. L. 92–261, providing for the repeal of subsecs. (e) and (h) of section 705 of Pub. L. 88–352, which were classified respectively to section 2204 of former Title 5 and former subsec. (g) of this section, served to conform the designation of former subsecs. (e) and (f) to their subsection designation as originally enacted. Subsecs. (i) and (j) of section 705 of Pub. L. 88–352 have been redesignated as (h) and (i) by Pub. L. 92–261, thereby conforming the subsection designation of this section to section 705 of Pub. L. 88–352, as amended.

AMENDMENTS

1975—Subsec. (e). Pub. L. 93–608 struck out reporting requirement of names, salaries, and duties of all individuals in employ of Commission.

1972—Subsec. (a). Pub. L. 92–261, § 8(d), struck out provisions setting forth the length of the terms of the original members of the Commission and provisions authorizing the Vice Chairman to act as Chairman in certain circumstances, added provisions relating to the continuation in office of all members of the Commission, and substituted provisions requiring appointment of officers, etc., in accordance with the provisions of Title 5, fixing compensation of such officers, etc., in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, relating to classification and General Schedule pay rates, and requiring assignment, removal, and compensation of hearing examiners in accordance with the specified sections, for provisions requiring appointment

of officers, etc., in accordance with the civil service laws, and fixing compensation of such officers, etc., in accordance with the Classification Act of 1949, as amended.

Subsec. (b). Pub. L. 92–261, § 8(e)(1), (3), added subsec. (b). Former subsec. (b) was redesignated as (c).

Subsec. (c). Pub. L. 92–261, § 8(e)(3), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 92–261, § 8(e)(3), redesignated former subsec. (c) as (d). Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 92–261, § 8(e)(3), redesignated former subsec. (d) as (e). Former subsec. (e) was redesignated as (f).

Subsec. (g). Pub. L. 92–261, § 8(e)(2), (f), repealed former provisions, which provided for legal representation for the Commission, and in par. (6) substituted provisions which authorized the Commission to intervene in a civil action brought under section 2000e–5 of this title where the respondent is other than a government, governmental agency, or political subdivision for provisions which authorized the Commission to refer matters to the Attorney General with recommendations to intervene or institute civil actions.

§ 2000e–5. Enforcement provisions.

(a) Power of Commission to prevent unlawful employment practices.

The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e–2 or 2000e–3 of this title.

(b) Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference, conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause.

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d) of this section. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d) of this section, from the date upon which the Commission is authorized to take action with respect to the charge.

(c) State or local enforcement proceedings; notification of State or local authority; time for filing charges with Commission; commencement of proceedings.

In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (b) of this section by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(d) Same; notification of State or local authority; time for action on charges by Commission.

In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under

such State or local law to remedy the practice alleged.

(e) Time for filing charges; time for service of notice of charge on respondent; filing of charge by Commission with State or local agency.

A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(f) Civil action by Commission, Attorney General, or person aggrieved; preconditions; procedure; appointment of attorney; payment of fees, costs, or security; intervention; stay of Federal proceedings; action for appropriate temporary or preliminary relief pending final disposition of charge; jurisdiction and venue of United States courts; designation of judge to hear and determine case; assignment of case for hearing; expedition of case; appointment of master.

(1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d) of this section, the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) of this section, is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d) of this section, whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of Title 28, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate

a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

(g) Injunctions; appropriate affirmative action; equitable relief; accrual of back pay; reduction of back pay; limitations on judicial orders.

If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 2000e–3 (a) of this title.

* * * * *

(i) Proceedings by Commission to compel compliance with judicial orders.

In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under this section, the Commission may commence proceedings to compel compliance with such order.

(j) Appeals.

Any civil action brought under this section and any proceedings brought under subsection (i) of this section shall be subject to appeal as provided in sections 1291 and 1292, Title 28. (As amended Pub. L. 92–261, § 4, Mar. 24, 1972, 86 Stat. 104.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (f)(2), is a reference to the Civil Rights Act of 1964. The reference probably should have been "this title", meaning title VII of the Civil Rights Act of 1964, which is classified to this subchapter.

Rules 65 and 53 of the Federal Rules of Civil Procedure, referred to in subsecs. (f)(2) and (f)(5), respectively, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Subsection (b) of this section, referred to in subsec. (c), was in the original a reference to subsection (a) of this section, and has been editorially changed to subsection (b) of this section to conform to the redesignation of subsection (a) by Pub. L. 93–261.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–261, § 4(a), added subsec. (a). Former subsec. (a) was redesignated as (b) and generally amended.

Subsec. (b). Pub. L. 92–261, § 4(a), redesignated former subsec. (a) as (b) and, as so redesignated, modified the procedure for the filing and consideration of charges by the Commission, subjected to coverage unlawful employment practices of joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, required the Commission to accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law in its determination of reasonable cause, and added the provision setting forth the time period, after charges have been filed, allowed to the Commission to determine reasonable cause. Former subsec. (b) was redesignated as (c).

Subsec. (c). Pub. L. 92–261, § 4(a), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 92–261, § 4(a), redesignated former subsec. (c) as (d). Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 92–261, § 4(a), redesignated former subsec. (d) as (e) and, as so redesignated, extended from ninety to one hundred and eighty days after the occurence of the alleged unlawful employment practice the time for filing charges under this section and from two hundred and ten to three hundred days the time for filing such charges where the person aggrieved initially instituted proceedings with a State or local agency, and added the requirement that notice of the charge be served on the respondent within ten days after filing. Former subsec. (e) was redesignated as (f)(1).

Subsec. (f). Pub. L. 92–261, § 4(a), redesignated former subsec. (e) as par. (1) and, as so redesignated, substituted provisions setting forth the procedure for civil actions where the Commission was unable to secure from the respondents a conciliation agreement to prevent further unlawful employment practices for provisions setting forth the procedure for civil actions where the Commission was unable to obtain voluntary compliance with this subchapter and added provisions setting forth the procedure for civil action where the respondent is a government, governmental agency, or political subdivision and the Commission could not secure a conciliation agreement, added par. (2), redesignated former subsec. (f) as par. (3) and, as so redesignated, substituted "aggrieved person" for "plaintiff", and added pars. (4) and (5).

Subsec. (g). Pub. L. 92–261, § 4(a), added the provisions which authorized the court to order affirmative action not limited solely to the enumerated affirmative acts and such other equitable relief as deemed appropriate, and the provisions which set forth the accrual date for back pay.

Subsec. (i). Pub. L. 92–261, § 4(b)(1), substituted "this section" for "subsection (e) of this section".

Subsec. (j). Pub. L. 92–261, § 4(b)(2), substituted "this section" for "subsection (e) of this section".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 14 of Pub. L. 92–261 provided that: "The amendments made by this Act to section 706 of the Civil Rights Act of 1964 [this section] shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act [March 24, 1972] and all charges filed thereafter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000e–4, 2000e–6, 2000e–8, 2000e–9, 2000e–16 of this title.

§ 2000e–6. Civil actions by the Attorney General.

* * * * *

(c) Transfer of functions, etc., to Commission; effective date; prerequisite to transfer; execution of functions by Commission.

Effective two years after March 24, 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of Title 5, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section.

(d) Transfer of functions, etc., not to affect suits commenced pursuant to this section prior to date of transfer.

Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

(e) Investigation and action by Commission pursuant to filing of charge of discrimination; procedure.

Subsequent to March 24, 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 2000e–5 of this title. (As amended Pub. L. 92–261, § 5, Mar. 24, 1972, 86 Stat. 107.)

AMENDMENTS

1972—Subsecs. (c)–(e). Pub. L. 92–261 added subsecs. (c)–(e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e–4 of this title.

§ 2000e–8. Investigations.

* * * * *

(b) Cooperation with State and local agencies administering State fair employment practices laws; participation in and contribution to research and other projects; utilization of services; payment in advance or reimbursement; agreements and rescission of agreements.

The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this subchapter and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this subchapter. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this subchapter.

(c) Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relief from regulation or order for undue hardship; procedure for exemption; judicial action to compel compliance.

Every employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this subchapter or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this subchapter which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this subchapter, including, b it not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney

General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

(d) Consultation and coordination between Commission and interested State and Federal agencies in prescribing recordkeeping and reporting requirements; availability of information furnished pursuant to recordkeeping and reporting requirements; conditions on availability.

In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection.

* * * * *

(As amended Pub. L. 92–261, § 6, Mar. 24, 1972, 86 Stat. 107.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–261 added provisions authorizing the Commission to engage in and contribute to the cost of research and other projects undertaken by State and local agencies and provisions authorizing the Commission to make advance payments to State and local agencies and their employees for services rendered to the Commission, and struck out provisions relating to agreements between the Commission and State and local agencies prohibiting private civil actions under section 2000e–5 of this title in : pecified cases.

Subsec. (c). Pub. L. 92–261 struck out "Except as provided in subsection (d) of this section," preceding "every employer, employment agency, and labor organization subject to this subchapter shall (1)", required the party seeking an exemption to bring an action in the district court only after the Commission denied the application for the exemption, and added the provision which authorized the Commission, or the Attorney General in a case involving a government, etc., to apply for a court order compelling compliance with the recordkeeping and reporting obligations set out in this subsection.

Subsec. (d). Pub. L. 92–261 substituted provisions requiring consultation and coordination between Federal and State agencies in prescribing recordkeeping and reporting requirements pursuant to subsec. (c) of this section, and authorizing the Commission to furnish information obtained pursuant to subsec. (c) of this section to interested State and local agencies, for provisions exempting from recordkeeping and reporting requirements employers, etc., required to keep records and make reports under State or local fair employment practice laws, except for the maintenance of notations by such employers, etc., which reflect the differences in coverage or enforcement between State or local laws and the provisions of this subchapter, and dispensing with recordkeeping and reporting requirements where the employer reports under some Executive Order prescribing fair employment practices for Government contractors or subcontractors.

§ 2000e–9. Conduct of hearings and investigations pursuant to section 161 of Title 29.

For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 161 of Title 29 shall apply. (As amended Pub. L. 92–261, § 7, Mar. 24, 1972, 86 Stat. 109.)

AMENDMENTS

1972—Pub. L. 92–261 substituted provisions making applicable section 161 of Title 29 to all hearings and investigations conducted by the Commission or its authorized agents or agencies, for provisions enumerating the investigatory powers of the Commission and the procedure for their enforcement.

§ 2000e–13. Application to personnel of Commission of sections 111 and 1114 of Title 18; punishment for violation of section 1114 of Title 18.

The provisions of sections 111 and 1114, Title 18, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of Title 18, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life. (As amended Pub. L. 92–261, § 8(g), Mar. 24, 1972, 86 Stat. 110.)

REFERENCES IN TEXT

"This Act", referred to in the text, is a reference to the Civil Rights Act of 1964. The reference probably should have been "this title", meaning title VII of the Civil Rights Act of 1964, which is classified to this subchapter.

AMENDMENTS

1972—Pub. L. 92–261 added provisions which made section 1114 of Title 18 applicable to officers, etc., of the Commission and set forth punishment for violation of such section 1114.

§ 2000e–14. Equal Employment Opportunity Coordinating Council; establishment; composition; duties; report to President and Congress.

There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. (Pub. L. 88–352, title VII, § 715, July 2, 1964, 78 Stat. 265, amended Pub. L. 92–261, § 10, Mar. 24, 1972, 86 Stat. 111.)

AMENDMENTS

1972—Pub. L. 92–261 substituted provisions which established the Equal Employment Opportunity Coordinating Council and set forth the composition, powers, and duties of the Council for provisions which directed the Secretary of Labor to make a report to the Congress not later than June 30, 1965 concerning discrimination in employment because of age.

§ 2000e–16. Employment by Federal Government.

(a) Discriminatory practices prohibited; employees or applicants for employment subject to coverage.

All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of Title 5, in executive agencies (other than the General Accounting Office) as defined in section 105 of Title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

(b) Civil Service Commission; enforcement powers; issuance of rules, regulations, etc.; annual review and approval of national and regional equal employment opportunity plans; review and evaluation of equal employment opportunity programs and publication of progress reports; consultations with interested parties; compliance with rules, regulations, etc.; contents of national and regional equal employment opportunity plans; authority of Librarian of Congress.

Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) of this section through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Civil action by employee or applicant for employment for redress of grievances; time for bringing of action; head of department, agency, or unit as defendant.

Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection (a) of this section, or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 2000e–5 of this title, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

(d) Section 2000e–5(f) through (k) of this title applicable to civil actions.

The provisions of section 2000e–5 (f) through (k) of this title, as applicable, shall govern civil actions brought hereunder.

(e) Government agency or official not relieved of responsibility to assure nondiscrimination in employment or equal employment opportunity.

Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government. (Pub. L. 88–352, title VII, § 717, as added Pub. L. 92–261, § 11, Mar. 24, 1972, 86 Stat. 111.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (e), is a reference to the Civil Rights Act of 1964. The reference probably should have been "this title", meaning title VII of the Civil Rights Act of 1964, which is classified to this subchapter.

Executive Order 11478, as amended, referred to in subsecs. (c) and (e), is set out as a note under section 2000e of this title.

§ 2000e–17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan.

No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of section 554 of Title 5, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan. (Pub. L. 88–352, title VII, § 718, as added Pub. L. 92–261, § 13, Mar. 24, 1972, 86 Stat. 113.)

SUBCHAPTER VII.—REGISTRATION AND VOTING STATISTICS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 section 1221.

SUBCHAPTER VIII.—COMMUNITY RELATIONS SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2000a–3, 5304 of this title; title 20 section 1221.

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 section 1221.

§ 2000h–2. Intervention by Attorney General; denial of equal protection on account of race, color, religion, sex or national origin.

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action, (As amended Pub. L. 92–318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Pub. L. 92–318 included the term "sex" after the word "religion".

Chapter 22.—INDIAN HOSPITALS AND HEALTH FACILITIES

Sec.

2004b. Implementation of education, hospital and health facility, etc., contracts and grants by Public Health Service personnel; request for detail of personnel [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 25 section 450g; title 50 App., section 456.

§ 2001. Hospitals and health facilities transferred to Public Health Service; restriction on closing hospitals.

(a) All functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are transferred to, and shall be administered by, the Surgeon General of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

(b) In carrying out his functions, responsibilities, authorities, and duties under this chapter, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis. (As amended Dec. 29, 1973, Pub. L. 93–222, § 6(a), 87 Stat. 935.)

AMENDMENTS

1973—Pub. L. 93–222 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2005 of this title; title 25 section 903a.

§§ 2002, 2003.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 25 section 903a.

§ 2004. Transfer of personnel, property, records, monies.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 903a.

§ 2004a. Sanitation facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 903a.

§ 2004b. Implementation of education, hospital and health facility, etc., contracts and grants by Public Health Service personnel; request for detail of personnel.

In accordance with subsection (d) of section 215 of this title, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to section 450f, 450g, or 450h of Title 25. (Aug. 5, 1954, ch. 658, § 8, as added Jan. 4, 1975, Pub. L. 93–638, title I, § 105(b), 88 Stat. 2208.)

§ 2005b. Same; conditions of assistance.

As a condition to providing assistance under section 2005 of this title, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under sections 2005 to 2005f of this title and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under subchapter IV of chapter 6A of this title.

(Pub. L. 85–151, § 3, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section is set out in this Supplement to correct the internal reference to subchapter IV of chapter 6A of this title.

§ 2005d. Same; eligibility of assisted project for aid under other acts; excluded costs.

Neither assistance provided under sections 2005 to 2005f of this title for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under subchapter IV of chapter 6A of this title or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under sections 2005 to 2005f of this title shall not be included in the cost of construction in which the Federal Government shares under such sections 291 to 291n of this title or other Federal Act. (Pub. L. 85–151, § 5, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section is set out in this Supplement to correct the internal reference to subchapter IV of chapter 6A of this title.

Chapter 23.—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

SUBCHAPTER XIII.—GENERAL AUTHORITY OF COMMISSION

Sec.

2211. Payment of claims or judgments for damage resulting from nuclear incident involving nuclear reactor of United States warship; exception; terms and conditions [New].

SUBCHAPTER XV.—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

Sec.

2242. Temporary operating licenses for nuclear power reactors [New].
- (a) Prerequisites for filing applications; affidavits; hearing.
- (b) Requisite findings of Commission; terms and conditions of temporary license; judicial review.
- (c) Vacation of temporary license.
- (d) Expiration of authority.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5812, 5817, 5842, 5843, 5844, 5846, 5848, 5876, 5902, 5908 of this title; title 15 section 2080; title 33 section 1402.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 2012. Congressional findings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

§ 2014. Definitions.

* * * * *

(q) The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however*, That as the term is used in section 2210(*l*) of this title, it shall include any such occurrence outside the United States: *And provided further*, That as the term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further*, That as the term is used in section 2210(c) of this title, it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to subchapters V, VI, VII, and IX of this chapter, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

* * * * *

(t) The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section 2210(c) of this title, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity

agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.

* * * * *

(As amended Dec. 31, 1975, Pub. L. 94–197, § 1, 89 Stat. 1111.)

AMENDMENTS

1975—Subsec. (q). Pub. L. 94–197 substituted "source, special nuclear, or byproduct material" for "facility or device" and added proviso to include within term as used in section 2210(c) of this title any occurrence outside both the United States and any other nation.

Subsec. (t). Pub. L. 94–197 expanded definition to include nuclear incidents occurring outside the United States as the term is used in section 2210(c) of this title and added reference to person required to maintain financial protection.

§ 2017a–1. Same; construction design services.

REPEATED

Pub. L. 92–84, title I, § 103, Aug. 11, 1971, 85 Stat. 306; Pub. L. 92–314, title I, § 103, June 16, 1972, 86 Stat. 225.

SUBCHAPTER II.—ORGANIZATION

§§ 2031, 2032. Repealed. Pub. L. 93–438, title I, § 104(a), Oct. 11, 1974, 88 Stat. 1237.

Section 2031, act Aug. 1, 1946, ch. 724, § 21, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Aug. 9, 1955, ch. 697, § 3, 69 Stat. 630, provided for the establishment of the Atomic Energy Commission, its composition, Chairman, acting Chairman, quorum, official spokesman, and seal.

Section 2032, act Aug. 1, 1946, ch. 724, § 22, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Sept. 4, 1957, Pub. L. 85–287, § 1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, § 305(10)(A), 78 Stat. 423, provided for the appointment of members of the Commission, terms of office, and prohibition from engaging in any other vocation, business, or employment, by the members.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of this title.

§ 2035. Divisions, offices, and positions.

TRANSFER OF FUNCTIONS

Divisions of Military Application and Naval Reactors established under this section transferred to the Energy Research and Development Administration and the functions of the Atomic Energy Commission with respect thereto, and with respect to relations with the Military Liasion Committee established by section 2037 of this title, transferred to the Administrator, see section 5814(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5814 of this title.

§ 2036. General Advisory Committee; composition; tenure; meetings; compensation.

TRANSFER OF FUNCTIONS

General Advisory Committee transferred to the Energy Research and Development Administration and the functions of the Atomic Energy Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 of this title, transferred to the Administrator, see section 5814(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5814 of this title.

§ 2037. Military Liaison Committee; composition; duties; authority of Defense Department.

TRANSFER OF FUNCTIONS

Functions of the Atomic Energy Commission with respect to relations with the Military Liasion Committee, transferred to the Administrator, see section 5814(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5814 of this title.

§ 2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER III.—RESEARCH

§ 2051. Research assistance; fields covered; conditions.

(a) The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development and training activities in the fields specified below, by private or public institutions or persons, and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to—

* * * * *

(4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commercial uses, the generation of usable energy, and the demonstration of advances in the commercial or industrial application of atomic energy;

(5) the protection of health and the promotion of safety during research and production activities; and

(6) the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs.

* * * * *

(As amended Aug. 11, 1971, Pub. L. 92–84, title II, § 201(a), 85 Stat. 307.)

AMENDMENTS

1971—Subsec. (a)(6). Pub. L. 92–84 added subsec. (a)(6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2052, 2053, 2061, 2122, 2134, 2165, 2183, 2201, 2209, 5817 of this title.

§ 2052. Research by the Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5817 of this title.

§ 2053. Same; research for others; charges.

Where the Commission finds private facilities or laboratories are inadequate for the purpose, it is authorized to conduct for other persons, through its own facilities, such of those activities and studies of the types specified in section 2051 of this title as it deems appropriate to the development of energy. To the extent the Commission determines that private facilities or laboratories are inadequate for the purpose, and that the Commission's facilities, or scientific or technical resources have the potential of lending significant assistance to other persons in the fields of protection of public health and safety, the Commission may also assist other persons in these fields by conducting for such persons, through the Commission's own facilities, research and development or training activities and studies. The Commission is authorized to determine and make such charges as in its discretion may be desirable for the conduct of the activities and studies referred to in this section. (As amended Aug. 11, 1971, Pub. L. 92–84, title II, § 201(b), 85 Stat. 307.)

AMENDMENTS

1971—Pub. L. 92–84 substituted provisions authorizing the Commission to conduct research for other persons for the development of energy, for provisions authorizing the Commission to conduct research for other persons for the development of atomic energy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5817 of this title.

SUBCHAPTER V.—SPECIAL NUCLEAR MATERIAL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2014, 2021, 5842 of this title.

§ 2074. Foreign distribution of special nuclear material.

(a) Compensation; distribution to International Atomic Energy Agency; procedure for distribution; repurchase of unconsumed materials; price; purchase of materials produced outside United States; price.

The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however,* That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 2153 of this title, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however,* That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further,* That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further,* That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 2134 of this title, established by the Commission pursuant to section 2076 of this title, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

(b) Distribution to persons outside United States of plutonium and other special nuclear material exempted under section 2077(d) of this title; compensation; reports.

Notwithstanding the provisions of sections 2153 and 2154 of this title and section 125 of the Atomic

Energy Act of 1954, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 2077(d) of this title, exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

(c) Licensing or granting permission to others to distribute special nuclear material; conditions.

The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission. (As amended Aug. 17, 1974, Pub. L. 93–377, § 2, 88 Stat. 473.)

REFERENCES IN TEXT

Section 125 of the Atomic Energy Act of 1954, referred to in subsec. (b), is section 125 of act Aug. 1, 1946, ch. 724, as added by Pub. L. 85–14, Apr. 12, 1957, 71 Stat. 11, and is set out as a note under section 2153 of this title.

AMENDMENTS

1974—Pub. L. 93–377 designated existing provisions as subsec. (a) and, as so designated, denominated initial proviso as cl. (i), added cl. (ii) and references to groups of nations, and substituted references to this subsection for references to this section, and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2075, 2077, 2153, 2154, 2294 of this title.

§ 2076. Guaranteed purchase prices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2074 of this title.

§ 2077. Unauthorized dealings in special nuclear material.

* * * * *

(d) Establishment of classes of special nuclear material; exemption of materials, kinds of uses and users from requirement of license.

The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public. (As amended Aug. 17, 1974, Pub. L. 93–377, § 3, 88 Stat. 475.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–377 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2074, 2121, 2153, 2154, 2201, 2272, 2282 of this title.

SUBCHAPTER VI.—SOURCE MATERIAL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2021, 5842 of this title.

SUBCHAPTER VII.—BYPRODUCT MATERIALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2021, 5842 of this title.

§ 2111. Domestic distribution; license; price limitations.

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section or by section 2112 of this title. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to qualified applicants with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public. (As amended Aug. 17, 1974, Pub. L. 93–377, § 4, 88 Stat. 475.)

AMENDMENTS

1974—Pub. L. 93–377 substituted "qualified applicants with or without charge" for "licensees with or without

charge", and struck out "Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such by-product material" preceding "The Commission shall not".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2121, 2183, 2201, 2210, 2282 of this title.

SUBCHAPTER IX.—ATOMIC ENERGY LICENSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2014, 5842 of this title.

§ 2131. License required.

EXPORT LICENSING POLICY

Procedures concerning an export licensing policy as to nuclear materials and equipment, see Ex. Ord. No. 11902, Feb. 2, 1976, 41 F.R. 4877, set out as a note under section 5841 of this title.

§ 2134. Medical therapy, research, and development licenses; limitations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2074 of this title.

§ 2140. Exclusions from license requirement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5842 of this title.

SUBCHAPTER X.—INTERNATIONAL ACTIVITIES

§ 2153. Cooperation with other nations.

No cooperation with any nation or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

* * * * *

(d) Submission to the Congress.

The proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to sections 2121(c), 2164(b), or 2164(c) of this title, or if entailing implementation of sections 2073, 2074, 2133 or 2134 of this title, in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine. (As amended Aug. 17, 1974, Pub. L. 93–377, § 5, 88 Stat. 475; Oct. 26, 1974, Pub. L. 93–485, § 1, 88 Stat. 1460.)

AMENDMENTS

1974—Opening par. Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

Subsec. (d). Pub. L. 93–485 added reference to proposed agreements entailing implementation of sections 2073, 2074, 2133, or 2134 of this title, or in relation to reactors capable of producing more than five thermal megawatts or special nuclear material in connection therewith, added provision requiring the Joint Committee to submit a report to Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution favoring or otherwise of such agreement within the first thirty days of the sixty day period and providing that such concurrent resolution so reported shall become the pending business of the House in question within twenty-five days and shall be voted on within five days thereafter unless such House determined otherwise, and struck out the proviso that during the 85th Congress the waiting period shall be thirty days.

EFFECTIVE DATE OF 1974 AMENDMENTS

Section 2 of Pub. L. 93–485 provided that: "This Act [amending subsec. (d) of this section] shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter [Oct. 26, 1974] submitted to the Congress."

PRESIDENTIAL REVIEW AND REPORT TO CONGRESS ON ADEQUACY OF LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT OF NUCLEAR MATERIALS, ETC., AND DOMESTIC AND INTERNATIONAL NUCLEAR SAFEGUARDS PREVENTING PROLIFERATION, DIVERSION, OR THEFT OF NUCLEAR MATERIALS

Pub. L. 93–500, § 14, Oct. 29, 1974, 88 Stat. 1557, provided that: "The President is directed to review all laws, regulations issued thereunder by the Atomic Energy Commission, the Department of Commerce, and other Government agencies, governing the export and re-export of materials, supplies, articles, technical data or other information relating to the design, fabrication, development, supply, repair or replacement of any nuclear facility or any part thereof, and to report within six months to the Congress on the adequacy of such regulations to prevent the proliferation of nuclear capability for nonpeaceful purposes. The President is also directed to review domestic and international nuclear safeguards and to report within six months to the Congress on the adequacy of such safeguards to prevent the proliferation, diversion or theft of all such nuclear materials and on efforts by the United States and other countries to strengthen international nuclear safeguards in anticipation of the Review Conference scheduled to be held in February 1975 pursuant to Article VIII, section 3 of the Treaty on the Non-Proliferation of Nuclear Weapons."

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, § 125, as added by Pub. L. 85–14, Apr. 12, 1957, 71 Stat. 11, and amended by Pub. L. 93–377, § 5, Aug. 17, 1974, 88 Stat. 475, provided that: "The President may authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with section 123 [this section], on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may therafter cooperate with Berlin pursuant to sections 54a, 57, 64, 82, 103, or 104 [sections 2074(a), 2077, 2094, 2112, 2133, or 2134 of this title]: *Provided*, That the guaranties required by section 123 [this section] shall be made by Berlin with the approval of the allied commandants."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, 2154, 2164, 2201, 2291, 2294, 2295 of this title.

§ 2154. International atomic pool.

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074(a), 2077, 2094, 2112, 2133, 2134, or 2164(a) of this title: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title. (As amended Aug. 17, 1974, Pub. L. 93–377, § 5, 88 Stat. 475.)

AMENDMENTS

1974—Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2074 of this title.

SUBCHAPTER XI.—CONTROL OF INFORMATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5817 of this title.

§§ 2161 to 2166.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 5817 of this title.

SUBCHAPTER XII.—PATENTS AND INVENTIONS

§ 2181. Inventions relating to atomic weapons, and filing of reports.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING ATOMIC ENERGY CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of title 35, Patents.

§ 2183. Nonmilitary utilization.

* * * * *

(h) Effective period.

The provisions of this section shall apply to any patent the application for which shall have been filed before September 1, 1979. (As amended Aug. 17, 1974, Pub. L. 93–377, § 6, 88 Stat. 475.)

AMENDMENTS

1974—Subsec. (h). Pub. L. 93–377 substituted "September 1, 1979" for "September 1, 1974".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2184, 2186, 2187, 2239 of this title.

§ 2187. Compensation, awards, and royalties.

* * * * *

(b) Eligibility.

* * * * *

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181(c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, after consultation with the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

* * * * *

(As amended May 10, 1974, Pub. L. 93–276, title II, § 201, 88 Stat. 119.)

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93–276 substituted "after consultation with the General Advisory Committee" for "upon the recommendation of the General Advisory Committee".

TRANSFER OF FUNCTIONS

Patent Compensation Board transferred to the Energy Research and Development Administration and the functions of the Atomic Energy Commission with respect thereto, and with respect to relations with the Military Laision Committee established by section 2037 of this title, transferred to the Administrator, see section 5814(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2183, 2184, 2239, 5814 of this title.

SUBCHAPTER XIII.—GENERAL AUTHORITY OF COMMISSION

§ 2201. General duties of Commission.

* * * * *

(i) Regulations governing Restricted Data.

prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

* * * * *

(w) License fees for nuclear power reactors.

Prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 2133 or 2134(b) of this title, any fee, charge, or price which it may require, in accordance with the

provisions of section 483a of Title 31 or any other law, of applicants for, or holders of, such licenses. (As amended June 16, 1972, Pub. L. 92-314, title III, § 301, 86 Stat. 227; Aug. 17, 1974, Pub. L. 93-377, § 7, 88 Stat. 475.)

AMENDMENTS

1974—Subsec. (i). Pub. L. 93-377 added provision in cl. (2) relating to regulations or orders designating activities, involving quantities of special nuclear material important to the common defense and security, that may be conducted by persons whose character, etc., have been established so that if they are permitted to conduct such activities it would not be inimical to the common defense and security.

1972—Subsec. (w). Pub. L. 92-314 added subsec. (w).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2093, 2203, 2273, 2281, 2294, 2325, 5812, 5816, 5849 of this title; title 5 section 7533.

§ 2206. Comptroller General audit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5876 of this title.

§ 2210. Indemnification and limitation of liability.

(a) Financial protection for public liability claims; indemnification agreement; waiver of immunity.

Each license issued under section 2133 or 2134 of this title and each construction permit issued under section 2235 of this title shall, and each license issued under section 2073, 2093, or 2111 of this title may, for the public purposes cited in section 2012(i) of this title, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection (b) of this section to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection (c) of this section. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

(b) Financial protection; amount and type; promulgation of rules, regulations and orders by Commission; deferred premium charges; determination of terms and conditions applicable to licensees.

The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from December 31, 1975, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further*, That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this chapter shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed

facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.

(c) Indemnification from public liability in excess of level of financial protection; aggregate indemnity.

The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1987, for which it requires financial protection of less than $560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 excluding costs of investigating and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1987, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1987.

(d) Indemnification agreements for construction or operation of production or utilization facilities, or other activities; applicability to contracts; sovereign immunity.

In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1987, to enter into agreements of indemnification with its contractors for the construction or operation of production or utilization facilities or other activities under contracts for the benefit of the United States involving activities under the risk of public liability for a substantial nuclear incident. In such agreements of indemnification the Commission may require its contractor to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000, excluding costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000: *Provided further,* That in the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Commission shall not exceed $100,000,000. The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission. A contractor with whom an agreement of indemnification has been executed and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this section, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

(e) Aggregate liability for a single nuclear incident.

The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided,* That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further,* That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) of this section is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.

(f) Collection and amount of fee.

The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 2133 of this title: *Provided,* That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 2134 of this title, and for construction permits under section 2235 of this title, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 2134 of this title, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.

* * * * *

(h) Conditions of agreement of indemnification; settlement of claims.

The agreement of indemnification may contain such terms as the Commission deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission

makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this chapter. Such settlement shall not include expenses in connection with the claim incurred by the person indemnified.

(i) Survey of causes and extent of damage; report to Joint Committee, Congressmen of affected districts and Senators of affected States; availability to public.

After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected States, and, except for information which would cause serious damage to the national defense of the United States, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.

* * * * *

(k) Exemption from financial protection requirement; indemnification from public liability in excess of $250,000; aggregate indemnity; waiver.

With respect to any license issued pursuant to section 2073, 2093, 2111, 2134(a), or 2134(c) of this title, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection (a) of this section. With respect to licenses issued between August 30, 1954, and August 1, 1987, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, excluding cost of investigating and settling claims and defending suits for damage;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1987, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1987.

(l) Indemnification agreements in connection with nuclear ship Savannah.

The Commission is authorized until August 1, 1977, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-powered ship authorized by section 1206 of Title 46, and designated the "nuclear ship Savannah." In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair, maintenance or use and shall indemnity the person indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000 excluding costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with each nuclear incident: *Provided*, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

* * * * *

(n) Waiver of defenses; jurisdiction and venue of public liability actions; removal or transfer of actions; process.

(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

(a) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility, or

(b) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

(c) during the course of the contract activity arises out of or results from the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any

issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than twenty years after the date of the nuclear incident. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection (e) of this section.

* * * * *

(*o*) Percentage limitation; distribution plans; claim disposition and fund distribution plans; allocation for personal injury, property damage, and possible latent injury claims; approval, disapproval, or modification; adoption of other plan; orders for implementation and enforcement of provisions; area orders effective; report to Joint Committee by Commission; contents.

Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under subsection (e) of this section:

* * * * *

(3) The Commission shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States.

(4) the [1] Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection (i) of this section setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.

(p) Report to Congress by Commission; contents.

The Commission shall submit to the Congress by August 1, 1983, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section. (As amended Dec. 31, 1975, Pub. L. 94–197, §§ 2–14, 89 Stat. 1111–1115.)

CODIFICATION

Amendment by section 3 of Pub. L. 94–197 has not been executed to section 107 b. of the Atomic Energy Act of 1954, as amended, as provided for in the enacting language of such section 3 but to section 170 b. of the Atomic Energy Act of 1954, as amended, (subsec. (b) of this section) as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–197, § 2, added provision relating to the public purposes cited in section 2012(i) of this title and "in the exercise of its licensing and regulatory authority and responsibility" following "as the Commission", and substituted "required, it may" for "required, it shall".

Subsec. (b). Pub. L. 94–197, § 3, added requirement that for facilities having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be at a reasonable cost and on reasonable terms, and requirement that financial protection be subject to such terms and conditions as the Commission, by rule, regulation or order prescribes, and established premium and funding standards and procedures for prescribing terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources.

Subsec. (c). Pub. L. 94–197, § 4, substituted "and August 1, 1987, for which it requires financial protection of less than $560,000,000," for "and August 1, 1977, for which it requires financial protection," , "excluding" for "including the reasonable", and "August 1, 1987" for "August 1, 1977" in material relating to any production or utilization facility.

Subsec. (d). Pub. L. 94–197, § 5, substituted "until August 1, 1987," for "until August 1, 1977," and "excluding" for "including the reasonable".

[1] So in original.

Subsec. (e). Pub. L. 94–197, § 6, denominated existing provisions as cl. (1), added cl. (2), substituted proviso relating to Congressional review and action for proviso relating to aggregate liability exceeding the sum of $560,000,000, and substituted *"And provided further"* for *"Provided further"*.

Subsec. (f). Pub. L. 94–197, § 7, added proviso which authorized Commission to reduce the indemnity fee for persons with whom indemnification agreements have been executed in reasonable relation to increases in financial protection above a level of $60,000,000.

Subsec. (h). Pub. L. 94–197, § 8, substituted "shall not include" for "may include reasonable".

Subsec. (i). Pub. L. 94–197, § 9, added "or which will probably result in public liability claims in excess of $560,000,000," following "this section", and requirement that Commission report extent of damage caused from a nuclear incident to the Congressmen of the affected districts and the Senators of the affected state and substituted provision relating to information concerning the national defense, for provisions relating to applicability of prohibition of sections 2161 to 2166 of this title, other laws or Executive order.

Subsec. (k). Pub. L. 94–197, § 10, substituted "August 1, 1987" for "August 1, 1977" wherever appearing therein and substituted "excluding" for "including the reasonable" in par. (1).

Subsec. (*l*). Pub. L. 94–197, § 11, substituted "excluding" for "including the reasonable".

Subsec. (n)(1)(iii). Pub. L. 94–197, § 12, substituted "twenty years" for "ten years".

Subsec. (o). Pub. L. 94–197, § 13, in par. (3) added provisions authorizing the establishment, in any plan for disposition of claims, of priorities between classes of claims and claimants to extent necessary to ensure the most equitable allocation of available funds, and added par. (4).

Subsec. (p). Pub. L. 94–197, § 14, added subsec. (p).

CROSS REFERENCES

Nuclear incident involving nuclear reactor of United States warship, payment of claims or judgments of bodily injury, death, or damage resulting from, see section 2211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2073, 2296 of this title.

§ 2211. Payment of claims or judgments for damage resulting from nuclear incident involving nuclear reactor of United States warship; exception; terms and conditions.

It is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided*, That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds. (Pub. L. 93–513, Dec. 6, 1974, 88 Stat. 1611.)

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises subchapters I to XVII of this chapter.

SUBCHAPTER XV.—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

§ 2232. License applications.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2242 of this title.

§ 2235. Construction permits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2242 of this title.

§ 2239. Hearings and judicial review.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Atomic Energy Commission made reviewable by this section, see section 2342(4) of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2242 of this title.

§ 2241. Atomic safety and licensing boards; establishment; membership; functions; compensation.

TRANSFER OF FUNCTIONS

The functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board transferred to the Nuclear Regulatory Commission, see section 5841(g)(1) of this title.

§ 2242. Temporary operating licenses for nuclear power reactors.

(a) Prerequisites for filing applications; affidavits; hearing.

In any proceeding upon an application for an operating license for a nuclear power reactor, in which a hearing is otherwise required pursuant to section 2239(a) of this title, the applicant may petition the Commission for a temporary operating license authorizing operation of the facility pending final action by the Commission on the application. Such petition may be filed at any time after filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 2232(b) of this title; (2) the safety evaluation of the application by the Commission's regulatory staff; and (3) the regulatory staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 4332(2)(C) of this title or, in the case of an application for operating license filed on or before September 9, 1971, if the regulatory staff's final detailed statement required under section 4332(2)(C) of this title is not completed, the Commission must satisfy the applicable requirements of the National Environmental Policy Act prior to issuing any temporary operating license under this section. The petition shall be accompanied by an affidavit or affidavits setting forth the facts upon which the petitioner relies to justify issuance of the temporary operating license. Any party to the proceeding may file affidavits in support of, or opposition to, the petition within fourteen days after the filing of such petition, or within such additional time not to exceed ten days as may be fixed by the Commission. The Commission shall hold a hearing after ten days' notice and publication once in the Federal Register on any such petition and supporting material filed under this section and the decision of the Commission with respect to the issuance of a temporary operating license, following such hearing, shall be on the basis of findings on the matters specified in subsection (b) of this section. The hearing required by this section and the decision of the Commission on the petition shall be conducted with expedited procedures as the Commission may by rule, regulation, or

order deem appropriate for a full disclosure of material facts on all substantial issues raised in connection with the proposed temporary operating license.

(b) Requisite findings of Commission; terms and conditions of temporary license; judicial review.

With respect to any petition filed pursuant to subsection (a) of this section, the Commission shall issue a temporary operating license upon finding that:

(1) the provisions of section 2235 of this title have been met with respect to the temporary operating license;

(2) operation of the facility during the period of the temporary operating license in accordance with its terms and condition will provide adequate protection of the environment during the period of the temporary operating license; and

(3) operation of the facility in accordance with the terms and conditions of the temporary operating license is essential toward insuring that the power generating capacity of a utility system or power pool is at, or is restored to, the levels required to assure the adequacy and reliability of the power supply, taking into consideration factors which include, but need not be limited to, alternative available sources of supply, historical reserve requirements for the systems involved to function reliably, the possible endangerment to the public health and safety in the event of power shortages, and data from appropriate Federal and State governmental bodies which have official responsibility to assure an adequate and reliable power supply.

The temporary license shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof, and the requirement that the licensee not retire or dismantle any of its existing generating capacity on the ground of the availability of the capacity from the facility which is operating under the temporary license. Any decision or other document authorizing the issuance of any temporary license pursuant to this section shall recite with specificity the reasons justifying the issuance. The decision of the Commission with respect to the issuance of a temporary operating license shall be subject to judicial review pursuant to the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129).

(c) Vacation of temporary license.

The hearing on the application for the final operating license otherwise required pursuant to section 2239(a) of this title shall be concluded as promptly as practicable. The Commission shall vacate the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license pursuant to subsection (b) of this section shall be without prejudice to the position of any party to the proceeding in which a hearing is otherwise required pursuant to section 2239(a) of this title; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license.

(d) Expiration of authority.

The authority under this section shall expire on October 30, 1973. (Aug. 1, 1946, ch. 724, § 192, as added June 2, 1972, Pub. L. 92-307, 86 Stat. 191.)

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (a), is classified to section 4321 et seq. of this title.

Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), referred to in subsec. (b), was repealed in the general revision of Title 5, and the provisions are now covered by section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER XVI.—JOINT COMMITTEE ON ATOMIC ENERGY

§ 2252. Authority and duty; report to Congress.

(a) The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. During the first ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities. The Department of Defense shall keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization, or application of atomic energy. Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee. The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

(b) The members of the Joint Committee who are Members of the Senate and the members of the Joint Committee who are Members of the House of Representatives shall, on or before June 30 of each year, report to their respective Houses on the development, use, and control of nuclear energy for the common defense and security and for peaceful purposes. Each report shall provide facts and information available to the Joint Committee concerning nuclear energy which will assist the appropriate committees of the Congress and individual members in the exercise of informed judgment on matters of weaponry; foreign policy; defense, international trade; and in respect to the expenditure and appropriation of Government

revenues. Each report shall be presented formally under circumstances which provide for clarification and discussion by the Senate and the House of Representatives. In recognition of the need for public understanding, presentations of the reports shall be made to the maximum extent possible in open sessions and by means of unclassified written materials. (As amended Dec. 6, 1974, Pub. L. 93–514, 88 Stat. 1611.)

AMENDMENTS

1974—Pub. L. 93–514 designated existing provisions as subsec. (a) and added subsec. (b).

§ 2254. Powers.

In carrying out its duties under this chapter, the Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no measure or recommendation shall be reported from the Joint Committee unless a majority of the committee assent. Subpenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The Joint Committee may use a committee seal. The provisions of sections 192 to 194 of Title 2, shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee upon vouchers approved by the Chairman, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate. The cost of stenographic service to report public hearings shall not be in excess of the amounts prescribed by law for reporting the hearings of standing committees of the Senate. The cost of stenographic service to report executive hearings shall be fixed at an equitable rate by the Joint Committee. Members of the Joint Committee, and its employees and consultants, while traveling on official business for the Joint Committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher. (As amended Dec. 27, 1974, Pub. L. 93–554, title I, § 101(2), 88 Stat. 1776.)

AMENDMENTS

1974—Pub. L. 93–554 added exception relating to requirement of vouchers for the disbursement of salaries of employees paid at an annual rate.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101 of Pub. L. 93–554 provided in part that amendment by Pub. L. 93–554 is effective Jan. 1, 1975.

SUBCHAPTER XVII.—ENFORCEMENT OF CHAPTER

§§ 2272 to 2276.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 38 section 3505.

SUBCHAPTER XVIII.—EURATOM COOPERATION

§ 2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services.

Pursuant to the provisions of section 2074 of this title, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 2153 of this title: *Provided,* That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the abovementioned contained uranium 235 pursuant to the provisions of section 2201(v)(B) of this title in lieu of sale or lease thereof. (As amended Pub. L. 93–88, Aug. 14, 1973, 87 Stat. 296.)

AMENDMENTS

1973—Pub. L. 93–88 substituted "an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium for other purposes" for "two hundred fifteen thousand kilograms of contained uranium 235".

Chapter 24.—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 section 452.

§ 2314. Repealed. Pub. L. 93–608, § 1(22), Jan. 2, 1975, 88 Stat. 1970.

Section, act Aug. 4, 1955, ch. 543, ch. 10, § 102, 69 Stat. 483, required a triennial report to the Joint Committee on Atomic Energy by the Commission reviewing its activities under this chapter.

§ 2391. Assistance to governmental entities.

(a) Annual assistance payments; extensions; determination of amount and recipient.

From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or

local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* with respect to the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

* * * * *

(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

* * * * *

(d) Recommendation for further assistance payments.

With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection (a) of this section (or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee), the Administrator shall present to the Joint Committee on Atomic Energy recommendations as to the need for any further assistance payments to such entity.

(e) Reduction or termination of assistance payments; determination by Administrator of financial self-sufficiency.

In exercising the authority of subsection (a) of this section the Administrator shall assure that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve financial self-sufficiency to the end that assistance payments by the Administrator may be reduced or terminated at the earliest practical time. (As amended Dec. 31, 1975, Pub. L. 94–187, title VI, § 601(1)–(6), 89 Stat. 1077, 1078.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–187, § 601 (1), (5), substituted "Administrator" for "Commission" in three instances and inserted at end of first sentence ": Provided further, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee".

Subsec. (a)(2). Pub. L. 94–187, § 601(2), substituted "Energy Research and Development Administration" for "atomic energy".

Subsec. (d). Pub. L. 94–187, § 601 (1), (3), (6), substituted "Administrator" for "Commission", struck out "its" preceding "recommendations", and inserted "; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee" following "Richland School District" in parenthetical text.

Subsec. (e). Pub. L. 94–187, § 601 (1), (4), substituted "Administrator" for "Commission" in two instances and deleted "itself" following "shall assure".

§ 2392. Reduction of payments.

Any payment which becomes due under section 2391 of this title prior to the transfer of all municipal installations at the community may be reduced by such amount as the Administrator determines to be equitable based on the municipal services then being performed by the Energy Research and Development Administration, and the municipal services then being performed by such governmental entity. (As amended Dec. 31, 1975, Pub. L. 94–187, title VI, § 601(1), (8), 89 Stat. 1077, 1078.)

AMENDMENTS

1975—Pub. L. 94–187 substituted "Administrator" for "Commission" where appearing first time and "Energy Research and Development Administration" for "Commission" where appearing second time.

§ 2393. Payments in anticipation of services; withholding of payments.

The payments made pursuant to section 2391 of this title to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment may be withheld, in whole or in part, if the Administrator finds that the recipient is not furnishing such services for any part of the area so designated. (As amended Dec. 31, 1975, Pub. L. 94–187, title VI, § 601(1), 89 Stat. 1077.)

AMENDMENTS

1975—Pub. L. 94–187 substituted "Administrator" for "Commission".

§ 2394. Contract to make payments.

The Administrator is authorized, without regard to section 665 of Title 31, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 2391 of this title, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 2391 of this title: *Provided, however,* That the term of such contracts, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of Anderson County and Roane County, Tennessee, shall not extend beyond June 30, 1986. (As amended Dec. 31, 1975, Pub. L. 94–187, title VI, § 601 (1), (9), 89 Stat. 1077, 1078.)

AMENDMENTS

1975—Pub. L. 94–187 substituted "Administrator" for "Commission" in two instances and provided that the term of such contracts shall not extend beyond June 30, 1986, in the case of Anderson County and Roane County, Tennessee.

Chapter 26.—NATIONAL SPACE PROGRAM

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.
2463. Tracking and data relay satellite services; authorization to contract; report to Congressional Committees [New].

SUBCHAPTER II.—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

2476a. Disposal of excess land; approval by Congressional committees [New].

SUBCHAPTER III.—UPPER ATMOSPHERE RESEARCH [NEW]

2481. Congressional declaration of purpose and policy.
2482. Definitions.
2483. Program authorized.
2484. International cooperation.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 2455. Security requirements.

ABOLISHMENT OF NATIONAL AERONAUTICS AND SPACE COUNCIL

The National Aeronautics and Space Council, including the office of Executive Secretary of the Council, together with the functions of the Council, was abolished by section 3(a)(4) of 1973 Reorg. Plan No. 1, 38 F.R. 9579, 87 Stat. 1089, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2457. Property rights in inventions.

CHANGE OF NAME

"Commissioner of Patents" redesignated "Commissioner of Patents and Trademarks", by section 3 of Pub. L. 93–596, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING NATIONAL SPACE PROGRAM CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of Title 35, Patents.

§ 2459. Appropriations; authorizations; availability and use; termination.

GEOGRAPHICAL DISTRIBUTION OF FUNDS

Pub. L. 94–39, § 5, June 19, 1975, 89 Stat. 221, provided that: "It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible."

Similar provisions were contained in Pub. L. 92–68, § 5, Aug. 6, 1971, 85 Stat. 176; Pub. L. 92–304, § 5, May 19, 1972, 86 Stat. 161; Pub. L. 93–74, § 5, July 23, 1973, 87 Stat. 174; Pub. L. 93–316, § 5, June 22, 1974, 88 Stat. 243.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Pub. L. 92–304, § 6, May 19, 1972, 86 Stat. 161, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [May 19, 1972] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958 [this chapter], the funds for which are authorized pursuant to this Act [National Aeronautics and Space Administration Authorization Act, 1973]. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [May 19, 1972], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

"(c)(1) Nothing in this Act shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

Similar provisions were contained in the following prior Appropriation Acts:

1971—Pub. L. 92–68, § 6, Aug. 6, 1971, 85 Stat. 177.
1970—Pub. L. 91–303, § 26, July 2, 1970, 84 Stat. 372.
1969—Pub. L. 91–119, § 7, Nov. 18, 1969, 83 Stat. 201.

§ 2463. Tracking and data relay satellite services; authorization to contract; report to Congressional Committees.

The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriation Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

The Administrator shall in January of each year report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Aeronautical and Space Sciences and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect as long as provision therefor is included in Acts authorizing appropriations to the National Aeronautics and Space Administration for subsequent fiscal years. (Pub. L. 94–39, § 6, June 19, 1975, 89 Stat. 221.)

SIMILAR PROVISIONS

Section was enacted as part of the National Aeronautics and Space Administration Authorization Act, 1976, Pub. L. 94–39, and not as part of the National Aeronautics and Space Act of 1958, which comprises this chapter. Similar provisions were contained in the following prior Appropriations Act:

1974—Pub. L. 93–316, § 7, June 22, 1974, 88 Stat. 243.

SUBCHAPTER II.—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5503, 5504 of this title.

§ 2471. National Aeronautics and Space Council.

ABOLISHMENT OF NATIONAL AERONAUTICS AND SPACE COUNCIL

The National Aeronautics and Space Council, created by this section, including the office of Executive Secretary of the Council, together with the functions of the Council, was abolished by section 3(a)(4) of 1973 Reorg. Plan No. 1, 38 F.R. 9579, 87 Stat. 1089, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2473. Functions of the Administration.

* * * * *

(b) The Administration shall initiate, support, and carry out such research, development, demonstrations, and other related activities in solar heating and cooling technologies (to the extent that funds are appropriated therefor) as are provided for in sections 5503, 5504, and 5507 of this title.

(c) In the performance of its functions the Administration is authorized—

* * * * *

(9) to obtain services as authorized by section 3109 of Title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18;

* * * * *

(11) to provide by concession, without regard to section 303b of Title 40, on such terms as the Administrator may deem to be appropriate and to be necessary to protect the concessioner against loss of his investment in property (but not anticipated profits) resulting from the Administration's discretionary acts and decisions, for the construction, maintenance, and operation of all manner of facilities and equipment for visitors to the several installations of the Administration and, in connection therewith, to provide services incident to the dissemination of information concerning its activities to such visitors, without charge or with a reasonable charge therefor (with this authority being in addition to any other authority which the Administration may have to provide facilities, equipment, and services for visitors to its installations). A concession agreement under this paragraph may be negotiated with any qualified proposer following due consideration of all proposals received after reasonable public notice of the intention to contract. The concessioner shall be afforded a reasonable opportunity to make a profit commensurate with the capital invested and the obligations assumed, and the consideration paid by him for the concession shall be based on the probable value of such opportunity and not on maximizing revenue to the United States. Each concession agreement shall specify the manner in which the concessioner's records are to be maintained, and shall provide for access to any such records by the Administration and the Comptroller General of the United States for a period of five years after the close of the business year to which such records relate. A concessioner may be accorded a possessory interest, consisting of all incidents of ownership except legal title (which shall vest in the United States), in any structure, fixture, or improvement he constructs or locates upon land owned by the United States; and, with the approval of the Administration, such possessory interest may be assigned, transferred, encumbered, or relinquished by him, and, unless otherwise provided by contract, shall not be extinguished by the expiration or other termination of the concession and may not be taken for public use without just compensation;

* * * * *

(As amended Pub. L. 93–74, § 6, July 23, 1973, 87 Stat. 174; Pub. L. 93–316, § 6, June 22, 1974, 88 Stat. 243; Pub. L. 93–409, § 4, Sept. 3, 1974, 88 Stat. 1070.)

REFERENCES IN TEXT

GS–18, referred to in subsec. (c)(9), is a grade of the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–409 added subsec. (b), and redesignated former subsec. (b) as (c).

Subsec. (b)(9). Pub. L. 93–316 substituted "section 3109 of Title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18" for "section 15 of the Act of August 2, 1946, at rates not to exceed $100 per diem for individuals".

Subsec. (c). Pub. L. 93–409 redesignated former subsec. (b) as (c).

1973—Subsec. (b)(11). Pub. L. 93–74 added par. (11).

CROSS REFERENCE

Restriction on employment of aliens generally, see section 699b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2453, 2471, 2473a of this title; title 5 section 5532.

§ 2476. Reports to the Congress.

(a) Presidential report; transmittal.

The President shall transit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 2451(c) of this title.

(b) Recommendations for additional legislation.

Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 2451(c) of this title.

(c) Classified information.

No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President. (As amended Pub. L. 92–68, § 7, Aug. 6, 1971, 85 Stat. 177.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–68, § 7 (1), (2), repealed provisions for submission of Administration reports to the

President semiannually and at other times, and redesignated former subsec. (b) as (a), respectively.

Subsecs. (b), (c). Pub. L. 92–68, § 7(2), redesignated former subsecs. (c) and (d) as (b) and (c). Former subsec. (b) redesignated (a).

Subsec. (d). Pub. L. 92–68, § 7(2), redesignated former subsec. (d) as (c).

§ 2476a. Disposal of excess land; approval by Congressional committees.

Notwithstanding the provisions of this or any other law, the Administraton may not report to a disposal agency as excess to the needs of the Administration any land having an estimated value in excess of $50,000 which is owned by the United States and under the jurisdiction and control of the Administration, unless (A) a period of thirty days has passed after the receipt by the Speaker and the Committee on Science and Astronautics of the House of Representatives and the President and the Committee on Aeronautical and Space Sciences of the Senate of a report by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. (Pub. L. 85–568, title II, § 207, as added Pub. L. 93–74, § 7, July 23, 1973, 87 Stat. 175.)

SUBCHAPTER III.—UPPER ATMOSPHERE RESEARCH [NEW]

§ 2481. Congressional declaration of purpose and policy.

(a) The purpose of this subchapter is to authorize and direct the Administration to develop and carry out a comprehensive program of research, technology, and monitoring of the phenomena of the upper atmosphere so as to provide for an understanding of and to maintain the chemical and physical integrity of the Earth's upper atmosphere.

(b) The Congress declares that it is the policy of the United States to undertake an immediate and appropriate research, technology, and monitoring program that will provide for understanding the physics and chemistry of the Earth's upper atmosphere. (Pub. L. 85–568, title IV, § 401, as added Pub. L. 94–39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2482. Definitions.

For the purpose of this subchapter the term "upper atmosphere" means that portion of the Earth's sensible atmosphere above the troposphere. (Pub. L. 85–568, title IV, § 402, as added Pub. L. 94–39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2483. Program authorized.

(a) In order to carry out the purposes of this subchapter the Administration in cooperation with other Federal agencies, shall initiate and carry out a program of research, technology, monitoring, and other appropriate activities directed to understand the physics and chemistry of the upper atmosphere.

(b) In carrying out the provisions of this subchapter the Administration shall—

(1) arrange for participation by the scientific and engineering community, of both the Nation's industrial organizations and institutions of higher education, in planning and carrying out appropriate research, in developing necessary technology and in making necessary observations and measurements;

(2) provide, by way of grant, contract, scholarships or other arrangements, to the maximum extext practicable and consistent with other laws, for the widest practicable and appropriate participation of the scientific and engineering community in the program authorized by this subchapter; and

(3) make all results of the program authorized by this subchapter available to the appropriate regulatory agencies and provide for the widest practicable dissemination of such results.

(Pub. L. 85–568, title IV, § 403, as added Pub. L. 94–39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2484. International cooperation.

In carrying out the provisions of this subchapter, the Administration, subject to the direction of the President and after consultation with the Secretary of State, shall make every effort to enlist the support and cooperation of appropriate scientists and engineers of other countries and international organizations. (Pub. L. 85–568, title IV, § 404, as added Pub. L. 94–39, § 8, June 19, 1975, 89 Stat. 223.)

Chapter 27.—LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED

§ 2495. National Advisory Committee on Education of the Deaf.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 30.—MANPOWER DEVELOPMENT AND TRAINING PROGRAM

SUBCHAPTER I.—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

§§ 2571 to 2574. Repealed. Pub. L. 93–203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2571, Pub. L. 87–415, title I, § 101, Mar. 15, 1962, 76 Stat. 23; Pub. L. 88–214, § 1, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 2, Apr. 26, 1965, 79 Stat. 75, set out the Congressional statement of findings and purpose in enacting manpower development and training legislation. See section 801 of Title 29, Labor.

Section 2572, Pub. L. 87–415, title I, § 102, Mar. 15, 1962, 76 Stat. 24; Pub. L 89–15, §§ 3, 4(b), Apr 26, 1965, 79 Stat 75, 76, directed the Secretary of Labor to conduct evaluation activities, obtain and supply information, conduct research, and develop projects to try to avoid or minimize individual hardship and widespread unemployment in accomplishing the objectives of technological progress. See section 811 of Title 29.

Section 2572a, Pub. L. 87–415, title I, § 103, as added Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 75, directed the

Secretary to develop job development programs. See section 811 of Title 29.

Section 2572b, Pub. L. 87–415, title I, § 104, as added Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89–792, § 2(a), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, § 1(1), Oct. 24, 1968, 82 Stat. 1352 made provision for labor mobility demonstration projects. See section 811 of Title 29.

Section 2572c, Pub. L. 87–415, title I, § 105, as added Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89–792, § 2(b), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, § 1(2), Oct. 24, 1968, 82 Stat. 1352, made provision for trainee placement assistance demonstration projects. See section 811 of Title 29.

Section 2573, Pub. L. 87–415, title I, § 106, formerly 103, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 75, and amended Pub. L. 90–636, § 2, Oct. 24, 1968, 82 Stat. 1352, made provision for a labor market information and job matching program. See section 811 of Title 29.

Section 2574, Pub. L. 87–415, Title I, § 107, formerly 104, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 75, directed the Secretary of Labor to make reports to the President and Congress pertaining to manpower requirements, resources, utilization, and training. See section 985 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out section 2571 to 2628 of this title available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93–203, set out in part as a note under section 801 of Title 29.

SUBCHAPTER II.—TRAINING AND SKILL DEVELOPMENT PROGRAMS

PART A.—DUTIES OF THE SECRETARY OF LABOR

§§ 2581 to 2587. Repealed. Pub. L. 93–203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2581, Pub. L. 87–415, title II, § 201, Mar. 15, 1962, 76 Stat. 25; Pub. L. 89–794, title X, § 1001(a), Nov. 8, 1966, 80 Stat. 1475, set out the general responsibility of the Secretary of Labor in the areas of training and skill development programs. See section 811 of Title 29, Labor.

Section 2582, Pub. L. 87–415, title II, § 202, Mar. 15, 1962, 76 Stat. 25; Pub. L. 88–214, § 2, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 5, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, § 3, Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, § 3(a), Oct. 24, 1968, 82 Stat. 1353, covered the selection of trainees by the Secretary of Labor. See section 801 et seq. of Title 29.

Section 2583, Pub. L. 87–415, title II, § 203, Mar. 15, 1962, 76 Stat. 26; Pub. L. 87–729, Oct. 1, 1962, 76 Stat. 679; Pub. L. 88–214, § 3, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 6, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, § 4, Nov. 7, 1966, 80 Stat. 1435; Pub. L. 89–794, title X, § 1001(b), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90–636, §§ 4, 5(a), Oct. 24, 1968, 82 Stat. 1353, made provision for the training allowances covering training and skill development programs. See section 801 et seq. of Title 29.

Section 2584, Pub. L. 87–415, title II, § 204, Mar. 15, 1962, 76 Stat. 28; Pub. L. 90–636, § 6, Oct. 24, 1968, 82 Stat. 1353, provided for on-the-job training programs. See section 801 et seq. of Title 29.

Section 2585, Pub. L. 87–415, title II, § 205, Mar. 15, 1962, 76 Stat. 28; Pub. L. 88–214, § 4, Dec. 19, 1963, 77 Stat. 423, made provision for the appointment of a National Advisory Committee by the Secretary. See section 951 of Title 29.

Section 2586, Pub. L. 87–415, title II, § 206, Mar. 15, 1962, 76 Stat. 29, authorized the Secretary to enter into agreements for the utilization of services of appropriate State agencies. See section 988 of Title 29.

Section 2587, Pub. L. 87–415, title II, § 207, Mar. 15, 1962, 76 Stat. 29, empowered the Secretary of Labor to promulgate rules and regulations. See section 982 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

PART B.—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

§§ 2601 to 2603. Repealed. Pub. L. 93–203, title VII, § 714 formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2601, Pub. L. 87–415, title II, § 231, Mar. 15, 1962, 76 Stat. 30; Pub. L. 88–214, § 6, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, § 8, Apr. 26, 1965, 79 Stat. 78; Pub. L. 89–792, § 5, Nov. 7, 1966, 80 Stat. 1436; Pub. L. 90–636, §§ 3(b), 5(b), 7, Oct. 24, 1968, 82 Stat. 1353, set out the general responsibility of the Secretary of Health, Education, and Welfare in the areas of training and skill development programs. See section 811 of Title 29.

Section 2602, Pub. L. 87–415, title II, § 232, Mar. 15, 1962, 76 Stat. 30, empowered the Secretary of Health, Education, and Welfare to promulgate rules and regulations. See section 801 et seq. of Title 29.

Section 2603, Pub. L. 87–415, title II, § 233, as added Pub. L. 89–792, § 8(b), Nov. 7, 1966, 80 Stat. 1437, directed the Secretary of Health, Education, and Welfare to make an annual report to Congress. See section 985 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

PART C.—REDEVELOPMENT AREAS

§ 2610a. Repealed. Pub. L. 93–203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section, Pub. L. 87–415, title II, § 241, as added Pub. L. 89–15, § 9(a), Apr. 26, 1965, 79 Stat. 79, authorized the Secretaries of Labor and of Health, Education, and Welfare to provide programs of supplementary training in redevelopment areas. See section 801 of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93–203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

PART D.—CORRECTIONAL INSTITUTIONS

§ 2610b. Repealed. Pub. L. 93–203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section, Pub. L. 87–415, title II, § 251, as added Pub. L. 89–792, § 6(a), Nov. 7, 1966, 80 Stat. 1436, and amended Pub. L. 90–636, § 1(3), Oct. 24, 1968, 82 Stat. 1352, made provision for experimental training programs for persons in correctional institutions. See section 801 et seq. of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93–203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

PART E.—WORK EXPERIENCE AND TRAINING PROGRAMS

§ 2610c. Repealed. Pub. L. 93–203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section, Pub. L. 87–415, title II, § 261, as added Pub. L. 89–794, Title X, § 1001(c), Nov. 8, 1966, 80 Stat. 1475,

made provision for programs for needy persons requiring work experience, supportive services, or training. See section 801 et seq. of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93-203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§§ 2611 to 2620. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2611, Pub. L. 87-415, title III, § 301, Mar. 15, 1962, 76 Stat. 30; Pub. L. 89-15, § 10, Apr. 26, 1965, 79 Stat. 79; Pub. L. 89-792, § 7, Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90-636, §§ 8-10, Oct. 24, 1968, 82 Stat. 1354; Pub. L. 91-4, § 1, Mar. 19, 1969, 83 Stat. 6, provided for the apportionment of benefits and the State administration of funds. See section 813 of Title 29, Labor.

Section 2612, Pub. L. 87-415, title III, § 302, Mar. 15, 1962, 76 Stat. 31; Pub. L. 89-15, § 11, Apr. 26, 1965, 79 Stat. 79, required the maintenance of a State effort as a prerequisite to the approval of Federal financing. See section 811 et seq. of Title 29.

Section 2613, Pub. L. 87-415, title III, § 303, Mar. 15, 1962, 76 Stat. 31, called for the utilization of available services and facilities of other Federal agencies and instrumentalities and of resources for skill development. See section 988 of Title 29.

Section 2614, Pub. L. 87-415, title III, § 304, Mar. 15, 1962, 76 Stat. 31; Pub. L. 88-214, § 7, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 12, Apr. 26, 1965, 79 Stat. 80; Pub. L. 89-792, §6(b), Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90-636, § 1(4), Oct. 24, 1968, 82 Stat. 1352, authorized appropriations. See section 802 of Title 29.

Section 2615, Pub. L. 87-415, title III, § 305, Mar. 15, 1962, 76 Stat. 32; Pub. L. 88-214, § 8, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 13, Apr. 26, 1965, 79 Stat. 80; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, placed certain limitations on the uses of appropriated funds. See section 981 et seq. of Title 29.

Section 2616, Pub. L. 87-415, title III, § 306, Mar. 15, 1962, 76 Stat. 32; Pub. L. 89-15, § 14, Apr. 26, 1965, 79 Stat. 80, set out the authority of the Secretaries of Labor and of Health, Education, and Welfare to contract, establish procedures, and make payments. See section 811 et seq. of Title 29.

Section 2617, Pub. L. 87-415, title III, § 307, Mar. 15, 1962, 76 Stat. 32, provided that selection of persons for training shall not be contingent upon their membership or non-membership in a labor organization. See section 811 et seq. of Title 29.

Section 2618, Pub. L. 87-415, title III, § 308, Mar. 15, 1962, 76 Stat. 32; Pub. L. 90-636, § 5(c), Oct. 24, 1968, 82 Stat. 1353, defined the term "State". See section 981 of Title 29.

Section 2619, Pub. L. 87-415, title III, § 309, as added Pub. L. 90-636, § 11, Oct. 24, 1968, 82 Stat. 1354, provided for training and technical assistance. See section 981 et seq. of Title 29.

Section 2620, Pub. L. 87-415, title III, § 310, Mar. 15, 1962, 76 Stat. 33; Pub. L. 88-214, § 10, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 16, Apr. 26, 1965, 79 Stat. 80; Pub. L. 90-636, § 1(5), Oct. 24, 1968, 82 Stat. 1352; Pub. L. 92-277, § 1, Apr. 24, 1972, 86 Stat. 124, called for the termination of authority to operate training and skill development programs under title II of Pub. L. 87-415 at the close of June 30, 1973.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER IV.—SEASONAL UNEMPLOYMENT IN THE CONSTRUCTION INDUSTRY

§§ 2621 to 2632. Repealed. Pub. L. 93-203, title VII, § 714 formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2621, Pub. L. 87-415, title IV, § 401, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1354, set out the Congressional findings and declaration of purpose in establishing a study of the problems of seasonal unemployment in the construction industry.

Section 2622, Pub. L. 87-415, title IV, § 402, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1355, called for a study by the Secretaries of Labor and Commerce of the means to stabilize employment in the construction industry and for a report to the President and Congress not later than Dec. 31, 1969.

Section 2623, Pub. L. 87-415, title IV, § 403, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1355, and amended 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, called for consultation with Federal official on the reduction of seasonal unemployment.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER V.—SUPPLEMENTARY STATE PROGRAMS

§§ 2624 to 2628. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section 2624, Pub. L. 87-415, title V, § 501, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1355, set out the Congressional declaration of purpose in providing for supplementary State programs. See section 811 et seq. of Title 29, Labor.

Section 2625, Pub. L. 87-415, title V, § 502, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided authorization for grants for supplementary State programs.

Section 2626, Pub. L. 87-415, title V, § 503, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided for the applications for supplementary State programs and the conditions for such programs.

Section 2627, Pub. L. 87-415, title V, § 504, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided for the promulgation of rules and regulations.

Section 2628, Pub. L. 87-415, title V, § 505, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, authorized appropriations for supplementary State programs.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

Chapter 32.—THIRD PARTY LIABILITY FOR HOSPITAL AND MEDICAL CARE

§ 2652. Regulations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

Chapter 33.—COMMUNITY MENTAL HEALTH CENTERS

SUBCHAPTER III.—COMMUNITY MENTAL HEALTH CENTERS [NEW]

PART A.—PLANNING AND OPERATIONS ASSISTANCE

Sec.
2689. General requirements for centers.
(a) Definitions.
(b) Comprehensive mental health services; provision and coordination of activities.
(c) Governing body; membership requirements; definition.
(d) Ongoing quality assurance program, integrated medical records system, professional advisory board and identifiable administrative unit; establishment pursuant to regulations; waiver of requirement of identifiable administrative unit.
2689a. Grants for planning center programs.
(a) Prerequisites; maximum amount.
(b) Duration and number of grants.
(c) Priority and approval of applications.
(d) Authorization of appropriations.
2689b. Grants for initial operation of centers and related public or nonprofit private entity.
(a) Purpose and scope of grants; status of prior grant recipients.
(b) Duration and number of grants.
(c) Computation of amount of grants.
(d) Authorization of appropriations.
(e) Continuation of grants for prior grant recipients; determination of duration, amount, number, etc., of continuation grants; authorization of appropriations.
(f) Grants subject to coverage.
2689c. Annual grants for consultation and education services of centers and related public or nonprofit private entity.
(a) Prerequisites.
(b) Computation of amount of grants; definition.
(c) Authorization of appropriations.
2689d. Conversion grants for related public or nonprofit entity.
(a) Number, prerequisites, and scope of grants.
(b) Duration and computation of amounts of grants.
(c) Authorization of appropriations.
2689e. General requirements for grants.
(a) Submission and approval of State plan.
(b) Submission and approval of application.
(c) Form, manner, contents, and required assurances of application; prerequisites for approval of application; evaluation and review program of activities; promulgation of regulations determining required costs; determination and review of adequacy of applicant's methods to obtain payments and reimbursements.
(d) Review of and comments on application by State mental health authority; disposition of application; time limitations.
(e) Maximum amount of appropriations usable for technical assistance for program management and training in program management.
(f) Definition.

PART B.—FINANCIAL DISTRESS GRANTS

2689f. Grants for operation of centers; eligible centers.
2689g. General requirements for grants.
(a) Submission and approval of State plan; terms and conditions for grants.
(b) Contents and required assurances of application; prerequisites for approval of application; review of and comments on application by State mental health authority; disposition of application; time limitations.
(c) Duration and number of grants.
(d) Computation of amount of grants.
Sec.
2689h. Authorization of appropriations.

PART C.—FACILITIES ASSISTANCE

2689i. Federal share; manner of payment; eligible projects; definition; computation and promulgation of amount.
2689j. Approval of projects; submission and contents of application; hearing; definition; prerequisites for approval of application; hearing prior to disapproval; amendment of approved application.
2689k. Payments.
(a) Remodeling, construction, or expansion projects, or purchases for such projects; prerequisites; manner of payments; exceptions; maximum amount; additional payments upon approval of amendment to application or revision of estimated cost of project.
(b) Acquisition and leasing projects; payments from State allotment pursuant to regulations.
(c) Withholding of payments; prerequisites and procedures.
2689*l*. Judicial review; appeal to courts of appeals; petition; record; conclusiveness of findings; review by Supreme Court; stay of administrative action.
2689m. Recovery of payments by United States; prerequisites; amount of recovery; procedure; nature of right.
2689n. Nonduplication of grants.
2689o. Allotments to States; determination of amount; availability of unobligated sums; reallotment of available amounts to other States; determination of amount of reallotment; adjustments to allotments.
2689p. Authorization of appropriations.

PART D.—RAPE PREVENTION AND CONTROL

2689q. National Center for the Prevention and Control of Rape.
(a) Establishment.
(b) Functions; definition.
(c) Advisory committee; appointment; functions; membership; compensation; per diem and travel expenses.
(d) Authorization of appropriations.

PART E.—GENERAL PROVISIONS

2689r. Definitions.
2689s. Regulations; promulation and required provisions; consultation prior to issuance.
2689t. State plans.
(a) Required administrative, and services and facilities provisions.
(b) Administration or supervision of administration by State agency.
(c) Regulations prescribing form and manner of submission; approval of plan or modification; notice and hearing prior to disapproval.
(d) Availability of allotments to States for administration of plan provisions relating to projects facilities; amounts available; duration of availability; manner of payment; conditions.
2689u. Catchment areas of centers; periodic review by designated State health planning and development agency and State mental health authority; purposes of review.
2689v. State control of administration, personnel, maintenance or operation of centers.
2689w. Maintenance of records; audit and examination of books, documents, etc.
2689x. Exclusions from determination of amount of grant.
2689y. Poverty area; determination.
2689z. Protection of personal rights under grants.
2689aa. Reimbursement of centers for mental health services.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 289k–1, 1320a–1 of this title.

EXECUTIVE ORDER NO. 11280

Ex. Ord. No. 11280, May 11, 1966, 31 F.R. 7167, set out as a note preceding section 2661 of this title, which established the President's Committee on Mental Retardation, was superseded by Ex. Ord. No. 11776, Mar. 28, 1974, 39 F.R. 11865, set out preceding section 6001 of this title.

SUBCHAPTER I.—UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§§ 2661 to 2666. Omitted.

CODIFICATION

Sections, which provided for university-affiliated facilities for persons with developmental disabilities, were eliminated in the general amendment of Part B of Pub. L. 88–164, title I by section 105 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 486, which enacted a new Part B relating to University Affiliated Facilities, classified to sections 6031 to 6033 and 6041 to 6043 of this title.

Section 2661, Pub. L. 88–164, title I, § 121, Oct. 31, 1963, 77 Stat. 284; Pub. L. 90–170, § 2(a), (b), (d), Dec. 4, 1967, 81 Stat. 527; Pub. L. 91–517, title II, § 201(a), (b), Oct. 30, 1970, 84 Stat. 1325, related to authorization of appropriations.

Section 2661a, Pub. L. 88–164, title I, § 122, as added Pub. L. 91–517, title II, § 202, Oct. 30, 1970, 84 Stat. 1326, and amended Pub. L. 93–45, title III, § 301(a), June 18, 1973, 87 Stat. 95; Pub. L. 94–103, title I, § 101(a), Oct. 4, 1975, 89 Stat. 486, related to demonstration and training grants and authorization of appropriations for such grants.

Section 2662, Pub. L. 88–164, title I, § 123, formerly § 122, Oct. 31, 1963, 77 Stat. 284, renumbered and amended Pub. L. 91–517, title II, §§ 202, 203, Oct. 30, 1970, 84 Stat. 1326, related to applications for grants and conditions for approval by Secretary.

Section 2663, Pub. L. 88–164, title I, § 124, formerly § 123, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91–517, title II, §§ 202, 204, Oct. 30, 1970, 84 Stat. 1326, related to amount of grants, including maximum payments, advances or reimbursement, and conditions for payment.

Section 2664, Pub. L. 88–164, title I, § 125, formerly § 124, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91–517, title II, §§ 201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326, related to recovery of expenditures under certain conditions.

Section 2665, Pub. L. 88–164, title I, § 126, formerly § 125, Oct. 31, 1963, 77 Stat. 285, amended Pub. L. 90–170, § 2(c), Dec. 4, 1967, 81 Stat. 527, renumbered and amended Pub. L. 91–517, title II, §§ 201(c), 202, Oct. 30, 1970, 84 Stat. 1326, related to nonduplication of grants.

Section 2666, Pub. L. 88–164, title I, § 127, as added Pub. L. 91–517, title II, § 206, Oct. 30, 1970, 84 Stat. 1326, related to maintenance of effort.

Subject matter is now covered by section 6001 et seq. of this title.

Sections eliminated effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SHORT TITLE

Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 496 enacted section 101 of Pub. L. 88–164, title I, which provided that "This title [section 6001 et seq. of this title] may be cited as the 'Developmental Disabilities Services and Facilities Construction Act.', section 100 of Pub. L. 88–164, title I, Oct. 31, 1963, 77 Stat. 282, as amended by Pub. L. 91–517, title II, § 207(a), Oct. 30, 1970, 84 Stat. 1327, which provided that former sections 205 to 295d–1 of this title and subchapters I, II, and IIA of this chapter [former sections 2661 to 2666, 2670 to 2677c, and 2678 to 2678d of this title] may be cited as the "Developmental Disabilities Services and Facilities Construction Act", being repealed by section 302(c) of Pub. L. 94–103.

SUBCHAPTER II.—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§ 2670. Repealed. Pub. L. 94–103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507

Section, Pub. L. 88–164, title I, § 130, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1316, contained the declaration of purpose for provisions respecting grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities.

EFFECTIVE DATE OF REPEAL

Section repealed effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§§ 2671 to 2674 Transferred.

CODIFICATION

Sections 2671 to 2674 transferred to sections 6061, 6062, 6007, and 6063, respectively, of this title.

§§ 2675, 2676. Repealed. Pub. L. 94–103, title I, § 112, Oct. 4, 1975, 89 Stat. 492

Section 2675, Pub. L. 88–164, title I, § 135, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1321, related to projects for construction, prescribing in: subsec. (a) for submission of application and its contents, subsec. (b) for approval by Secretary, subsec. (c) for a hearing prior to disapproval, and subsec. (d) for amendment of application. Subject matter is now covered in section 6001 et seq. of this title. See sections 6042, 6063, and 6064 of this title.

Section 2676, Pub. L. 88–164, title I, § 136, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1322, and amended Pub. L. 92–157, title III, § 303(b), Nov. 18, 1971, 85 Stat. 464, related to withholding of payments for construction. Subject matter is now covered in section 6064(b) of this title.

EFFECTIVE DATE OF REPEAL

Sections repealed effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§§ 2677 to 2677c Transferred.

CODIFICATION

Sections 2677 to 2677c transferred to sections 6064, 6065, 6008, and 6066, respectively, of this title.

§§ 2678 to 2678d. Omitted.

CODIFICATION

Sections, Pub. L. 88–164, title I, §§ 141–145, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 528 529, which provided for professional and technical services for community mental retardation facilities, were eliminated in the general amendment of Part D of Pub. L. 88–164, title I by section 120 of Pub. L. 94–103, title I, Oct. 4, 1975, 89 Stat. 495, which enacted a new Part D relating to Special Project Grants, classified to section 6081 of this title.

Sections related to following subject matter:

Section 2678, authorization, duration, amount and limitation of grants for professional and technical personnel and determination of grants by the Secretary;

Section 2678a, applications and conditions for approval, and limitation of availability of grants;

Section 2678b, payments of grants and adjustments;

Section 2678c, regulations; and

Section 2678d, authorization of appropriations.

Sections eliminated effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SUBCHAPTER III.—COMMUNITY MENTAL HEALTH CENTERS

§§ 2681 to 2688j–1. Omitted.

Section 2681, Pub. L. 88–164, title II, § 201, Oct. 31, 1963, 77 Stat. 290; Pub. L. 90–31, § 2(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, § 101(a), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93–45, title II, § 202(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(1), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1965 through fiscal year ending June 30, 1975, for grants for the construction of community mental health centers.

Section 2682, Pub. L. 88–164, title II, § 202, Oct. 31, 1963, 77 Stat. 290; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 91–211, title I, § 102(a), Mar. 13, 1970, 84 Stat. 54, set forth determination of amount, transfer, and adjustment of allotments to the States.

Section 2683 Pub. L. 88–164, title II, § 203, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89–105, § 2(a), Aug. 4 1965, 79 Stat. 427, authorized the Secretary to promulgate regulations relating to adequacy of services, priority of projects, standards of construction and contents of the State plan.

Section 2684, Pub. L. 88–164, title II, § 204, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89–105; § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, § 4(b), June 24, 1967, 81 Stat. 79; Pub. L. 92–255, title IV, § 403(b), Mar. 21, 1972, 86 Stat. 77, set forth requirements for submission and approval of the State plan.

Section 2685, Pub. L. 88–164, title II, § 205, Oct. 31, 1963, 77 Stat. 292; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427, set out prerequisites for approval of construction projects.

Section 2686, Pub. L. 88–164, title II, § 206, Oct. 31, 1963, 77 Stat. 293; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427, authorized the Secretary to withhold payments for projects under specified conditions and procedures.

Section 2687, Pub. L. 88–164, title II, § 207, Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, § 2(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, § 101(b), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93–45, title II, § 202(b), June 18, 1973, 87 Stat. 94.; Pub. L. 94–63, title VII, § 701(e)(2), July 29, 1975, 89 Stat. 352, prohibited duplication of grants under the Public Health Service Act for construction of centers unless the Secretary determined nonavailability of funds under provisions authorizing appropriations for construction.

Section 2688, Pub. L. 88–164, title II § 220, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 91–211, title II, § 201(a), Mar. 13, 1970, 84 Stat. 56, set forth authorization, duration and amount of grants for initial costs of professional and technical personnel of centers.

Section 2688a, Pub. L. 88–164, title II, § 221, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 90–31, § 3(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§ 203, 204(c), Mar. 13, 1970, 84 Stat. 57; Pub. L. 92–255, title IV, § 401(a), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93–45, title II, § 203(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(3), July 29, 1975, 89 Stat. 352, set forth prerequisites and conditions upon grants for initial costs of staffing of centers.

Section 2688b, Pub. L. 88–164, title II, § 222, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429, authorized the Secretary to prescribe the manner, terms and conditions for staffing grants.

Section 2688c, Pub. L. 88–164, title II, § 223, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429, authorized the Secretary to prescribe regulations for grants for initial costs of personnel of centers.

Section 2688d, Pub. L. 88–164, title II, § 224, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429, and amended Pub. L. 90–31, § 3(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§ 202, 204(a), (b), Mar. 13, 1970, 84 Stat. 56, 57; Pub. L. 93–45, title II, § 203(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(4), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1966 through fiscal year ending June 30, 1975, for initial grants for personnel of centers.

Section 2688e, Pub. L. 88–164, title II, § 240, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1006, set forth Congressional declaration of purpose for grants for facilities for alcoholic rehabilitation.

Section 2688f, Pub. L. 88–164, title II, § 241, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1007, and amended Pub. L. 91–211, title III, § 302, Mar. 13, 1970, 84 Stat. 58, authorized grants for the construction of facilities for the prevention and treatment of alcoholism and set forth procedures, and terms and conditions for such grants.

Section 2688g, Pub. L. 88–164, title II, § 242, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1008, and amended Pub. L. 91–211, title III, § 303(a), Mar. 13, 1970, 84 Stat. 58, authorized grants for the staffing of facilities for alcoholism prevention and treatment and set forth procedures and conditions for such grants.

Section 2688h, Pub. L. 88–164, title II, § 243, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1008, and amended Pub. L. 91–211, title III, § 302, Mar. 13, 1970, 84 Stat. 58; Pub. L. 91–616, title III, § 332, Dec. 31, 1970, 84 Stat. 1853, authorized grants for specialized facilities and personnel for the prevention and treatment of alcoholism and set forth procedures and conditions for such grants.

Section 2688i, Pub. L. 88–164, title II, § 244, as added Pub. L, 90–574, title III § 301, Oct. 15, 1968, 82 Stat. 1009, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and treatment of alcoholism.

Section 2688j, Pub. L. 88–164, title II, § 245, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, set forth manner, terms and conditions for grants for alcoholism treatment and prevention.

Section 2688j–1, Pub. L. 88–164, title II, § 246, as added Pub. L. 91–211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 93–45, title II, § 204(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(5)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance in alcoholism prevention and treatment.

§ 2688j–2. Repealed. Pub. L. 93–282, title III, § 302, May 14, 1974, 88 Stat. 137.

Section, Pub. L. 88–164, title II, § 247, formerly 246, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, renumbered Pub. L. 91–211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 91–616, title III, § 311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93–45, title II, § 204(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(5)(B), July 29, 1975, 89 Stat. 352, related to grants and contracts for the prevention and treatment of alcohol abuse and alcoholism, and is now covered by section 4577 of this title.

§§ 2688k to 2688o. Omitted.

Section 2688k, Pub. L. 88–164, title II, § 251, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1009, and amended Pub. L. 91–211, title III, § 302, March 13, 1970, 84 Stat. 58; Pub. L. 91–513, title I, § 1(a)(1), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 92–255, title IV, § 401(b), Mar. 21, 1972, 86 Stat. 76, authorized grants for construction, staffing, etc., of narcotic addiction, drug abuse and drug dependence prevention and rehabilitation facilities and set forth procedures and conditions for such grants.

Section 2688*l*. Pub. L. 88–164, title II, § 252, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91–211, title III, § 305(a), Mar. 13, 1970, 84 Stat. 59; Pub. L. 91–513, title I, § 1(a)(1), (2), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93–45, title II, § 205(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(6)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance in narcotic addiction, etc., prevention and rehabilitation.

Section 2688*l*–1, Pub. L. 88–164, title II, § 253, as added Pub. L. 91–513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238,

and amended Pub. L. 93–45, title II, § 205(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(6)(B), July 29, 1975, 89 Stat. 353, authorized grants and contracts and set out appropriations for programs in drug abuse education.

Section 2688m, Pub. L. 88–164, title II, § 254, formerly 253, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered and amended Pub. L. 91–513, title I, § 1(a)(1), (c), Oct. 27, 1970, 84 Stat. 1238, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and rehabilitation of narcotic addiction, etc.

Section 2688n, Pub. L. 88–164, title II, § 255, formerly 254, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered Pub. L. 91–513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238, set forth manner, terms and conditions for grants for narcotic addiction; etc., prevention and rehabilitation.

Section 2688n–1, Pub. L. 88–164, title II, § 256, as added Pub. L. 91–513, title I, § 1(d), Oct. 27, 1970, 84 Stat. 1239, and amended Pub. L. 92–255, title IV, § 401(c), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93–45, title II, § 205(c), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(6)(C), July 29, 1975, 89 Stat. 353, authorized grants for special projects for narcotic addicts and drug dependent persons treatment or rehabilitation and set forth procedures and conditions for such grants.

Section 2688o, Pub. L. 88–164, title II, § 261, as added Pub. L. 90–574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91–211, title III, § 301, Mar. 13, 1970, 84 Stat. 57; Pub. L. 91–513, title I, § 1(b)(1)–(3), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93–45, title II, § 206, June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(7), July 29, 1975, 89 Stat. 353, authorized appropriations from the fiscal year ending June 30, 1969 through the fiscal year ending June 30, 1975 for project grants for prevention and treatment of alcoholism and prevention and treatment of narcotic addiction, etc., and set out provisions relating to availability of appropriations.

§§ 2688q to 2688v. Omitted.

Section 2688q, Pub. L. 88–164, title II, § 263, as added Pub. L. 90–574, title III, § 303(a), Oct. 15, 1968, 82 Stat 1011, required consent for alcoholics, narcotic addicts, and persons with drug abuse and drug dependence problems to be subjects of research.

Section 2688r, Pub. L. 88–164, title II, § 264, as added Pub. L. 91–211, title V, § 501, Mar. 13, 1970, 84 Stat. 61, and amended Pub. L. 91–513, title I, § 1(b)(3), Oct. 27, 1970, 84 Stat. 1238, authorized grants for consultation services for community mental health centers, alcoholism prevention and treatment facility, etc., and set forth conditions for such grants.

Section 2688s, Pub. L. 88–164, title II, § 265, as added Pub. L. 91–211, title V, § 502, Mar. 13, 1970, 84 Stat. 62, defined the term "technical personnel".

Section 2688t, Pub. L. 88–164, title II, § 266, as added Pub. L. 91–211, title V, § 503(a), Mar. 13, 1970, 84 Stat. 62, and amended Pub. L. 91–616, title IV, § 402, Dec. 31, 1970, 84 Stat. 1854; Pub. L. 92–255, title V, § 502(b), Mar. 21, 1972, 86 Stat. 85, required approval of advisory council concerned with area of interest for grants for construction and staffing of centers and facilities.

Section 2688u, Pub. L. 88–164, title II, § 271, as added Pub. L. 91–211, title IV, § 401, Mar. 13, 1970, 84 Stat. 60, and amended Pub. L. 93–45, title II, § 207, June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, § 701(e)(8), July 29, 1975, 89 Stat. 353, authorized grants for construction and staffing of treatment facilities concerned with the mental health of children and set forth conditions for such grants.

Section 2688v, Pub. L. 88–164, title II, § 272, as added Pub. L. 91–211, title IV, § 401, Mar. 13, 1970, 84 Stat. 61, authorized grants for developing specialized training programs, training personnel, and conducting surveys and field trials in services concerned with the mental health of children.

PART A.—PLANNING AND OPERATIONS ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2689x, 2689z of this title.

§ 2689. General requirements for centers.

(a) Definitions.

For purposes of this subchapter (other than part B thereof), the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a defined geographic area (referred to in this subchapter as a "catchment area"),

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b) of this section,

and (2) which is organized in the manner prescribed by subsections (c) and (d) of this section.

(b) Comprehensive mental health services; provision and coordination of activities.

(1) The comprehensive mental health services which shall be provided through a community mental health center shall include—

(A) inpatient services, outpatient services, day care and other partial hospitalization services, and emergency services;

(B) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(C) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(D) consultation and education services which—

(i) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(ii) include a wide range of activities (other than the provision of direct clinical services) designed to (I) develop effective mental health programs in the center's catchment area, (II) promote the coordination of the provision of mental health services among various entities serving the center's catchment area, (III) increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and (IV) promote the prevention and control of rape and the proper treatment of the victims of rape;

(E) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to

a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

(F) provision of followup care for residents of its catchment area who have been discharged from a mental health facility;

(G) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from a mental health facility or would without such services require inpatient care in such a facility; and

(H) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

(i) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(ii) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including State mental health facilities) in or serving residents of the center's catchment area to insure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's catchment area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

(c) Governing body; membership requirements; definition.

(1)(A) The governing body of a community mental health center (other than a center described in subparagraph (B)) shall (i) be composed, where practicable, of individuals who reside in the center's catchment area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) meet at least once a month, establish general policies for the center (including a schedule of hours during which services will be provided), approve the center's annual budget, and approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) In the case of a community mental health center which before July 29, 1975, was operated by a governmental agency and received a grant under section 2688 of this title (as in effect before such date), the requirements of subparagraph (A) shall not apply with respect to such center, but the governmental agency operating the center shall appoint a committee to advise it with respect to the operations of the center, which committee shall be composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(2) For purposes of subparagraphs (A) and (B) of paragraph (1), the term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, or physician assistant) in that (i) the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided, and (ii) when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of, in research into, or instruction in the provision of, health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(d) Ongoing quality assurance program, integrated medical records system, professional advisory board and identifiable administrative unit; establishment pursuant to regulations; waiver of requirement of identifiable administrative unit.

A center shall have established, in accordance with regulations prescribed by the Secretary, (1) an ongoing quality assurance program (including

utilization and peer review systems) respecting the center's services, (2) an integrated medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a professional advisory board, which is composed of members of the center's professional staff, to advise the governing board in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(D) of this section. The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted. (Pub. L. 88–164, title II, § 201, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsec. (c), was omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SHORT TITLE OF 1975 AMENDMENT

Section 301 of Pub. L. 94–63 provided that: "This title [enacting this subchapter, amending sections 2691, 2693 to 2696, and enacting provisions set out as notes under this section] may be cited as the 'Community Mental Health Centers Amendments of 1975'."

SHORT TITLE

Section 245 of Pub. L. 88–164, as added by section 303 of Pub. L. 94–63, provided that: "This title [this subchapter] may be cited as the 'Community Mental Health Centers Act'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Section 302 of Pub. L. 94–63 provided that:

"(a) The Congress finds that—

"(1) community mental health care is the most effective and humane form of care for a majority of mentally ill individuals;

"(2) the federally funded community mental health centers have had a major impact on the improvement of mental health care by—

"(A) fostering coordination and cooperation between various agencies responsible for mental health care which in turn has resulted in a decrease in overlapping services and more efficient utilization of available resources,

"(B) bringing comprehensive community mental health care to all in need within a specific geographic area regardless of ability to pay, and

"(C) developing a system of care which insures continuity of care for all patients,

and thus are a national resource to which all Americans should enjoy access; and

"(3) there is currently a shortage and maldistribution of quality community health care resources in the United States.

"(b) The Congress further declares that Federal funds should continue to be made available for the purposes of initiating new and continuing existing community mental health centers and initiating new services within existing centers, and for the monitoring of the performance of all federally funded centers to insure their responsiveness to community needs and national goals relating to community mental health care."

REPORTS BY SECRETARY TO CONGRESSIONAL COMMITTEES ON PLAN FOR EXTENSION OF COMPREHENSIVE MENTAL HEALTH SERVICES AND STUDY OF NATIONAL STANDARDS OF CARE AND CRITERIA FOR EVALUATION OF CENTERS

Section 304 of Pub. L. 94–63 provided that:

"(a) Not later than one year after the date of the enactment of this Act [July 29, 1975] the Secretary of Health, Education, and Welfare shall make a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate setting forth a plan, to be carried out in a period of five years, for the extension of comprehensive mental health services through community mental health centers to persons in all areas in which there is a demonstrated need for such services. Such plan shall, at a minimum, indicate on a phased basis the number of persons to be served by such services and an estimate of the cost and personnel requirements needed to provide such services.

"(b) Not later than eighteen months after the date of the enactment of this Act [July 29, 1975] the Secretary of Health, Education, and Welfare shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a report setting forth (1) national standards for care provided by community mental health centers, and (2) criteria for evaluation of community mental health centers and the quality of the services provided by the centers."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689b to 2689g, 2689t of this title.

§ 2689a. Grants for planning center programs.

(a) Prerequisites; maximum amount.

The Secretary may make grants to public and nonprofit private entities to carry out projects to plan community mental health center programs. In connection with a project to plan a community mental health center program for an area the grant recipient shall (1) assess the needs of the area for mental health services, (2) design a community mental health center program for the area based on such assessment, (3) obtain within the area financial and professional assistance and support for the program, and (4) initiate and encourage continuing community involvement in the development and operation of the program. The amount of any grant under this subsection may not exceed $75,000.

(b) Duration and number of grants.

A grant under subsection (a) of this section for a project shall be made for its costs for the one-year period beginning on the first day of the month in which the grant is made; and, if a grant is made under such subsection for a project, no other grant may be made for such project under such subsection.

(c) Priority and approval of applications.

The Secretary shall give special consideration to applications submitted for grants under subsection (a) of this section for projects for community mental health centers programs for areas designated by the Secretary as urban or rural poverty areas. No applications for a grant under subsection (a) of this section may be approved unless the application is recommended for approval by the National Advisory Mental Health Council.

(d) Authorization of appropriations.

There are authorized to be appropriated for payments under grants under subsection (a) of this section $3,750,000 for the fiscal year 1976, and $3,750,000 for the fiscal year 1977. (Pub. L. 88–164, title II, § 202, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 312.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689b. Grants for initial operation of centers and related public or nonprofit private entity.

(a) Purpose and scope of grants; status of prior grant recipients.

(1) The Secretary may make grants to—

(A) public and nonprofit private community mental health centers, and

(B) any public or nonprofit private entity which—

(i) is providing mental health services,

(ii) meets the requirements of section 2689 of this title except that it is not providing all of the comprehensive mental health services described in subsection (b) (1) of such section, and

(iii) has a plan satisfactory to the Secretary for the provision of all such services within two years after the date of the receipt of the first grant under this subsection,

to assist them in meeting their costs of operation (other than costs related to construction).

(2) Grants under subsection (a) of this section may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center or other entity which received a grant under section 2688 of this title (as in effect before July 29, 1975), such center or other entity shall, for purposes of grants under subsection (a) of this section, be considered as having been in operation for a number of years equal to the sum of the number of grants in the first series of grants it received under such section and the number of grants it has received under this subsection.

(b) Duration and number of grants.

(1) Each grant under subsection (a) of this section to a community mental health center or other entity shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made.

(2) No community mental health center may receive more than eight grants under subsection (a) of this section. No entity described in subsection (a) (1) (B) of this section may receive more than two grants under subsection (a) of this section. In determining the number of grants that a community mental health center has received under subsection (a) of this section, there shall be included any grants which the center received under such subsection as an entity described in paragraph (1) (B) of such subsection.

(c) Computation of amount of grants.

The amount of a grant for any year made under subsection (a) of this section shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.

(2) (A) Except as provided in subparagraph (B), an amount equal to the following percentages of the grantee's projected costs of operation: 80 per centum of such costs for the first year of its operation, 65 per centum of such costs for the second year of its operation, 50 per centum of such costs for the third year of its operation, 35 per centum of such costs for the fourth year of its operation, 30 per centum of such costs for the fifth and sixth years of its operation, and 25 per centum of such costs for the seventh and eighth years of its operation.

(B) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected costs of operation: 90 per centum of such costs for the first two years of its operation, 80 per centum of such costs for the third year of its operation, 70 per centum of such costs for the fourth year of its operation, 60 per centum of such costs for the fifth year of its operation, 50 per centum of such costs for the sixth year of its operation, 40 per centum of such costs for the seventh year of its operation, and 30 per centum of such costs for the eighth year of its operation.

In any year in which a grantee receives a grant under section 2689c of this title for consultation and education services, the costs of the grantee's operation for that year attributable to the provision of such services and its collections in that year for such services shall be disregarded in making a computation under paragraph (1) or (2) respecting a grant under subsection (a) of this section for that year.

(d) Authorization of appropriations.

(1) There are authorized to be appropriated for payments under initial grants under subsection (a) of this section $50,000,000 for fiscal year 1976, and $55,000,000 for fiscal year 1977.

(2) For fiscal year 1977, and for each of the succeeding seven fiscal years, there are authorized to be appropriated such sums as may be necessary to make payments under continuation grants under subsection (a) of this section to community mental health centers and other entities which first received an initial grant under this section for fiscal year 1976, or the next fiscal year and which are eligible for a grant under this section in a fiscal year for which sums are authorized to be appropriated under this paragraph.

(e) Continuation of grants for prior grant recipients; determination of duration, amount, number, etc., of continuation grants; authorization of appropriations.

(1) Any entity which has not received a grant under subsection (a) of this section, which received a grant under section 2688, 2688g, 2688h, 2688k, 2688n–1, 2688r, or 2688u of this title (as in effect before July 29, 1975) from appropriations under this subchapter for a fiscal year ending before July 1,

1975, and which would be eligible for another grant under such section from an appropriation for a succeeding fiscal year if such section were not repealed by the Community Mental Health Centers Amendments of 1975 may, in lieu of receiving a grant under subsection (a) of this section, continue to receive a grant under each such repealed section under which it would be so eligible for another grant—

(A) for the number of years and in the amount prescribed for the grant under each such repealed section, except that—

(i) the entity may not receive under this subsection more than two grants under any such repealed section unless it meets the requirements of section 2689 of this title, and

(ii) the total amount received for any year (as determined under regulations of the Secretary) under the total of the grants made to the entity under this subsection may not exceed the amount by which the entity's projected costs of operation for that year exceed the total collections of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to make in that year; and

(B) in accordance with any other terms and conditions applicable to such grant.

In any year in which a grantee under this subsection receives a grant under section 2689c of this title for consultation and education services, the staffing costs of the grantee for that year which are attributable to the provision of such services and the grantee's collections in that year for such services shall be disregarded in applying subparagraph (A) and the provisions of the repealed section applicable to determining the amount of the grant the grantee may receive under this subsection for that year.

(2) An entity which receives a grant the authority for which is provided by this subsection may not receive any grant under subsection (a) of this section.

(3) There are authorized to be appropriated for fiscal year 1976, and for each of the next six fiscal years such sums as may be necessary to make grants in accordance wtih paragraph (1).

(f) Grants subject to coverage.

Unless otherwise specifically provided, a reference in this subchapter to a grant under this section includes a grant under subsection (a) of this section and a grant the authority for which is provided by subsection (e) of this section. (Pub. L. 88–164, title II, § 203, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 312.)

REFERENCES IN TEXT

Sections 2688, 2688g, 2688h, 2688k, 2688n–1, 2688r, or 2688u of this title, referred to in subsec. (e) were omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

The Community Mental Health Centers Amendments of 1975, referred to in subsec. (e), is title III of Pub. L. 94–63, which in the general reorganization and revision of the Community Mental Health Centers Act codified former section 2688 et seq. of this title. For complete distribution of such Act in the Code, see Short Title note set out under section 2689 of this title.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689c to 2689g of this title.

§ 2689c. Annual grants for consultation and education services of centers and related public or nonprofit private entity.

(a) Prerequisites.

(1) The Secretary may make annual grants to any community mental health center for the costs of providing the consultation and education services described in section 2689(b)(1)(D) of this title if the center—

(A) received from appropriations for a fiscal year ending before July 1, 1975, a staffing grant under section 2688 of this title (as in effect before July 29, 1975) and may not because of limitations respecting the period for which grants under that section may be made receive under section 2689b(e) of this title an additional grant under such section 2688 of this title; or

(B) has received or is receiving a grant under section 2689b of this title and the number of years in which the center has been in operation (as determined in accordance with section 2689b(a)(2) of this title) is not less than four (or is not less than two if the Secretary determines that the center will be unable to adequately provide the consultation and education services described in section 2689(b)(1)(D) of this title during the third or fourth years of its operation without a grant under this subsection).

(2) The Secretary may also make annual grants to a public or non-profit private entity—

(A) which has not received any grant under this subchapter (other than a grant under this section as amended by the Community Mental Health Centers Amendments of 1975),

(B) which meets the requirements of section 2689 of this title except, in the case of an entity which has not received a grant under this section, the requirement for the provision of consultation and education services described in section 2689(b)(1)(D) of this title, and

(C) the catchment area of which is not within (in whole or in part) the catchment area of a community mental health center,

for the costs of providing such consultation and education services.

(b) Computation of amount of grants; definition.

The amount of any grant made under subsection (a) of this section shall be determined by the Secretary, but no such grant to a center may exceed the lesser of 100 per centum of such center's costs of providing such consultation and education services during the year for which the grant is made or—

(1) in the case of each of the first two years for which a center receives such grant, the sum of (A) an amount equal to the product of $0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-half of the amount received by the center in such year from charges for the provision of such services;

(2) in the case of the third year for which a center receives such a grant, the sum of (A) an amount equal to the product of $0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-fourth of the amount received by the center in such year from charges for the provision of such services; and

(3) (A) except as provided in subparagraph (B), in the case of the fourth year and each subsequent year thereafter for which a center receives such a grant, the lesser of (i) the sum of (I) an amount equal to the product of $0.125 and the population of the center's catchment area, and (II) one-eighth of the amount received by the center in such year from charges for the provision of such services, or (ii) $50,000; or

(B) in the case of the fourth year and each subsequent year for which a center receives such a grant, the sum of (i) an amount equal to the product of $0.25 and the population of the center's catchment area, and (ii) the lesser of (I) the amount determined under clause (i) of this subparagraph, or (II) one-fourth of the amount received by the center in such year from charges for the provision for such services if the amount of the last grant received by the center under section 2688 of this title (as in effect before July 29, 1975) or section 2689b of this title, as the case may be, was determined on the basis of the center providing services to persons in an area designated by the Secretary as an urban or rural poverty area.

For purposes of this subsection, the term "center" includes an entity which receives a grant under subsection (a) (2) of this section.

(c) Authorization of appropriations.

There are authorized to be appropriated for payments under grants under this section $10,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977. (Pub. L. 88–164, title II, § 204, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 314.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsecs. (a) and (b), was omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

The Community Mental Health Centers Amendments of 1975, referred to in subsec. (a), is Title III of Pub. L. 94–63, which in the general reorganization and revision of the Community Mental Health Centers Act codified former section 2688 et seq. of this title. For complete distribution of such Act in the Code, see Short Title note set out under section 2689 of this title.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689b, 2689d, 2689e of this title.

§ 2689d. Conversion grants for related public or nonprofit entity.

(a) Number, prerequisites, and scope of grants.

The Secretary may make not more than two grants to any public or nonprofit entity which—

(1) has an approved application for a grant under section 2689b or 2689f of this title, and

(2) can reasonably be expected to have an operating deficit, for the period for which a grant is or will be made under such application, which is greater than the amount of the grant the entity is receiving or will receive under such application,

for the entity's reasonable costs in providing mental health services which are described in section 2689 (b) (1) of this title but which the entity did not provide before July 29, 1975.

(b) Duration and computation of amounts of grants.

(1) Each grant under subsection (a) of this section to an entity shall be made for the same period as the period for which the grant under section 2689b or 2689f of this title for which the entity had an approved application is or will be made.

(2) The amount of any grant under subsection (a) of this section to any entity shall be determined by the Secretary, but no such grant may exceed that part of the entity's projected operating deficit for the year for which the grant is made which is reasonably attributable to its costs of providing in such year the services with respect to which the grant is made. For purposes of this paragraph, the term "projected operating deficit" means the excess of an entity's projected costs of operation (including the costs of operation related to the provision of services for which a grant may be made under subsection (a) of this section) for a particular period over the total of the amount of State, local, and other funds (including funds under a grant under section 2689b, 2689c, or 2689f of this title) received by the entity in that period and the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to collect during that period.

(c) Authorization of appropriations.

There are authorized to be appropriated for payments under grants under subsection (a) of this section $20,000,000 for fiscal year 1976, and $20,000,000 for fiscal year 1977. (Pub. L. 88–164, title II, § 205, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 316.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689e of this title.

§ 2689e. General requirements for grants.

(a) Submission and approval of State plan.

(1)[1] No grant may be made under this part to any entity or community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 2689t of this title.

(b) Submission and approval of application.

No grant may be made under this part unless an application (meeting the requirements of subsection (c) of this section) for such grant has been submitted to, and approved by, the Secretary.

[1] Section enacted without subsec. (a) (2).

(c) Form, manner, contents, and required assurances of application; prerequisites for approval of application; evaluation and review program of activities; promulgation of regulations determining required costs; determination and review of adequacy of applicant's methods to obtain payments and reimbursements.

(1) An application for a grant under this part shall be submitted in such form and manner as the Secretary shall prescribe and shall contain such information as the Secretary may require. Except as provided in paragraph (3), an application for a grant under section 2689b, 2689c, or 2689d of this title shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the community mental health center for which the application is submitted will provide, in accordance with regulations of the Secretary (i) an overall plan and budget that meets the requirements of section 1395x(z) of this title, and (ii) an effective procedure for developing, compiling, evaluating, and reporting to the Secretary statistics and other information (which the Secretary shall publish and disseminate on a periodic basis and which the center shall disclose at least annually to the general public) relating to (I) the cost of the center's operation, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, (IV) the impact of its services upon the mental health of the residents of its catchment area, and (V) such other matters as the Secretary may require;

(B) such community mental health center will, in consultation with the residents of its catchment area, review its program of services and the statistics and other information referred to in subparagraph (A) to assure that its services are responsive to the needs of the residents of the catchment area;

(C) to the extent practicable, such community mental health center will enter into cooperative arrangements with health maintenance organizations serving residents of the center's catchment area for the provision through the center of mental health services for the members of such organizations under which arrangements the charges to the health maintenance organizations for such services shall be not less than the actual costs to the center of providing such services;

(D) in the case of a community mental health center serving a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

(E) such community mental health center has (i) established a requirement that the health care of every patient must be under the supervision of a member of the professional staff, and (ii) provided for having a member of the professional staff available to furnish necessary mental health care in case of an emergency;

(F) such community mental health center has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(G) in the case of an application for a grant under section 2689b of this title for a community mental health center which will provide services to persons in an area designated by the Secretary as an urban or rural poverty area, the applicant will use the additional grant funds it receives, because it will provide services to persons in such an area, to provide services to persons in such area who are unable to pay therefor;

(H) such community mental health center will develop a plan for adequate financial support to be available, and will use its best efforts to insure that adequate financial support will be available, to it from Federal sources (other than this part) and non-Federal sources (including, to the maximum extent feasible, reimbursement from the recipients of consultation and education services and screening services provided in accordance with section 2689(b)(1) (D) and (E) of this title) so that the center will be able to continue to provide comprehensive mental health services when financial assistance provided under this part is reduced or terminated, as the case may be;

(I) such community mental health center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under subchapter XIX of chapter 7 of this title for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(J) such community mental health center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under subchapter XVIII of chapter 7 of this title, to medical assistance under a State plan approved under subchapter XIX of chapter 7 of this title, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(K) such community mental health center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in

subparagraph (J) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph; and

(L) such community mental health center will adopt and enforce a policy (i) under which fees for the provision of mental health services through the center will be paid to the center, and (ii) which prohibits health professionals who provide such services to patients through the center from providing such services to such patients except through the center.

An application for a grant under section 2689b of this title shall also contain a long-range plan for the expansion of the program of the community mental health center for which the application is submitted for the purpose of meeting anticipated increases in demand by residents of the center's catchment area for the comprehensive mental health services described in section 2689(b)(1) of this title. Such a plan shall include a description of planned growth in the programs of the center, estimates of increased costs arising from such growth, estimates of the portion of such increased costs to be paid from Federal funds, and anticipated sources of non-Federal funds to pay the portion of such increased costs not to be paid from Federal funds.

(2) The Secretary may approve an application for a grant under section 2689b, 2689c, or 2689d of this title only if the application is recommended for approval by the National Advisory Mental Health Council, the application meets the requirements of paragraph (1), and, except as provided in paragraph (3), the Secretary—

(A) determines that the facilities and equipment of the applicant under the application meet such requirements as the Secretary may prescribe;

(B) determines that—

(i) the application contains or is supported by satisfactory assurances that the comprehensive mental health services (in the case of an application for a grant under section 2689b or 2689d of this title) or the consultation and education services (in the case of an application for a grant under section 2689c of this title) to be provided by the applicant will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) of, services that would otherwise be provided in the catchment area of the applicant;

(ii) the application contains or is supported by satisfactory assurances that Federal funds made available under section 2689b, 2689c, or 2689d of this title, as the case may be, will (I) be used to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third-party health insurance payments, that would in the absence of such Federal funds be made available for the applicant's comprehensive mental health services, and (II) in no event supplant such State, local, and other non-Federal funds;

(iii) in the case of an applicant which received a grant from appropriations for the preceding fiscal year, during the year for which the grant was made the applicant met, in accordance with the section under which such grant was made, the requirements of section 2689 of this title and complied with the assurances which were contained in or supported the applicant's application for such grant; and

(iv) in the case of an application for a grant the amount of which is or may be determined under section 2689b(c)(2)(B) of this title or 2689c(b)(3)(B) of this title or under a provision of a repealed section of this subchapter referred to in section 2689b(e) of this title which authorizes an increase in the ceiling on the amount of a grant to support services to persons in areas designated by the Secretary as urban or rural poverty areas, the application contains or is supported by assurances satisfactory to the Secretary that the services of the applicant will, to the extent feasible, be used by a significant number of persons residing in an area designated by the Secretary as an urban or rural poverty area and requiring such services.

(3) In the case of an application—

(A) for the first grant under section 2689b(a) of this title for an entity described in section 2689b(a)(1)(B) of this title, or

(B) for the first grant the authority for which is provided by section 2689b(e) of this title,

the Secretary may approve such application without regard to the assurances required by the second sentence of paragraph (1) of this subsection and without regard to the determinations required of the Secretary under paragraph (2) of this subsection if the application contains or is supported by assurances satisfactory to the Secretary that the applicant will undertake, during the period for which such first grant is to be made, such actions as may be necessary to enable the applicant, upon the expiration of such period, to make each of the assurances required by paragraph (1) and to enable the Secretary, upon the expiration of such period, to make each of the determinations required by paragraph (2).

(4) In each fiscal year for which a community mental health center receives a grant under section 2689b, 2689c, or 2689d of this title, such center shall obligate for a program of continuing evaluation of the effectiveness of its programs in serving the needs of the residents of its catchment area and for a review of the quality of the services provided by the center not less than an amount equal to 2 per centum of the amount obligated by the center in the preceding fiscal year for its operating expenses.

(5) The costs for which grants may be made under section 2689b(a), 2689c, or 2689d of this title, shall be determined in the manner prescribed in regulations of the Secretary issued after consultation with the National Advisory Mental Health Council.

(6) If the Secretary determines under section 2689b, 2689c, or 2689d of this title that an applicant for a grant under such section—

(A) has not made reasonable efforts to secure payments or reimbursements in accordance with

assurances provided under subparagraph (I), (J), or (K) of subsection (c)(1) of this section, or

(B) is capable of increasing the amount of payments or reimbursements described in any such subparagraph,

the Secretary shall, in the case of a determination described in subparagraph (A), inform the applicant of the respects in which the applicant has not made such reasonable efforts and the manner in which the applicant's performance can be improved and, in the case of a determination described in subparagraph (B), inform the applicant of the manner in which the applicant can increase the amount of such payments. The Secretary shall give to an applicant a reasonble[1] opportunity to respond, before the amount of the grant the applicant is applying for is determined, to a determination described in the preceding sentence. A determination of the Secretary referred to in the first sentence shall be referred to the National Advisory Mental Health Council for its review and recommendations.

(d) Review of and comments on application by State mental health authority; disposition of application; time limitations.

An application for a grant under this part which is submitted to the Secretary shall at the same time be submitted to the State mental health authority for the State in which the project or community mental health center for which the application is submitted is located. A State mental health authority which receives such an application under this subsection may review it and submit its comments to the Secretary within the forty-five-day period beginning on the date the application was received by it. The Secretary shall take action to require an applicant to revise his application or to approve or disapprove an application within the period beginning on the date the State mental health authority submits its comments or on the expiration of such forty-five-day period, whichever occurs first, and ending on the ninetieth day following the date the application was submitted to him.

(e) Maximum amount of appropriations usable for technical assistance for program management and training in program management.

Not more than 2 per centum of the total amount appropriated under sections 2689b, 2689c, and 2689d of this title for any fiscal year shall be used by the Secretary to provide directly through the Department technical assistance for program management and for training in program management to community mental health centers which received grants under such sections or to entities which received grants under section 2688 of this title in a fiscal year beginning before July 29, 1975.

(f) Definition.

For purposes of subsections (b), (c), (d), and (e) of this section, the term "community mental health center" includes an entity which applies for or has received a grant under section 2689b or 2689c(a)(2) of this title. (Pub. L. 88–164, title II, § 206, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 316.)

[1] So in original. Probably should read "reasonable".

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsec. (e), was omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689g of this title.

PART B.—FINANCIAL DISTRESS GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2689, 2689x, 2689z of this title.

§ 2689f. Grants for operation of centers; eligible centers.

The Secretary may make grants for the operation of any community mental health center which—

(1)(A) received a grant under section 2688 of this title (as in effect before July 29, 1975) and, because of limitations in such section 2688 of this title respecting the period for which the center may receive grants under such section 2688 of this title, is not eligible for further grants under that section for a fiscal year beginning after June 30, 1975; or

(B) received a grant or grants under section 2689b(a) of this title and, because of limitations respecting the period for which grants under such section may be made, is not eligible for further grants under that section; and

(2) demonstrates that without a grant under this section there will be a significant reduction in the types or quality of services provided or there will be an inability to provide the services described in section 2689(b) of this title.

(Pub. L. 88–164, title II, § 211, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 321.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in the text, was omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689d, 2689g, 2689h of this title.

§ 2689g. General requirements for grants.

(a) Submission and approval of State plan; terms and conditions for grants.

No grant may be made under section 2689f of this title to any community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 2689t of this title. Any grant under section 2689f of this title may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the community mental health center agree (1) to disclose any financial information or

data deemed by the Secretary to be necessary to determine the sources or causes of that center's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information, and (4) to use a grant received under section 2689f of this title to enable it to provide (within such period as the Secretary may prescribe) the comprehensive mental health services described in section 2689(b) of this title and to revise its organization to meet the requirements of section 2689 (c) and (d) of this title.

(b) Contents and required assurances of application; prerequisites for approval of application; review of and comments on application by State mental health authority; disposition of application; time limitations.

An application for a grant under section 2689f of this title must contain or be supported by the assurances prescribed by subparagraphs (A), (B), (C), (D), (E), (F), (G), (I), (J), (K), and (L) of section 2689e(c)(1) of this title and assurances satisfactory to the Secretary that the applicant will expend for its operation as a community mental health center, during the year for which such grant is sought, an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average annual amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three years immediately preceding the year for which such grant is sought. The Secretary may not approve such an application unless it has been recommended for approval by the National Advisory Mental Health Council. The requirements of section 2689e(d) of this title respecting opportunity for review of applications by State mental health authorities and time limitations on actions by the Secretary on applications shall apply with respect to applications submitted for grants under section 2689f of this title.

(c) Duration and number of grants.

Each grant under this section to a grantee shall be made for the projected costs of operation (except the costs of providing the consultation and education services described in section 2689(b)(1)(D) of this title) of such grantee for the one-year period beginning on the first day of the first month in which such grant is made. No community mental health center may receive more than three grants under section 2689f of this title.

(d) Computation of amount of grants.

The amount of a grant for a community mental health center under section 2689f of this title for any year shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the center's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the center may reasonably be expected to collect in that year.

(2) An amount equal to the product of—

(A) 90 per centum of the percentage of costs—

(i) which was the ceiling on the grant last made to the center in the first series of grants it received under section 2688 of this title (as in effect before July 29, 1975), or

(ii) prescribed by section 2689b(c)(2) of this title for computation of the last grant to the center under such section,

whichever grant was made last, and

(B) the center's projected costs of operation in the year for which the grant is to be made under section 2689f of this title.

(Pub. L. 88–164, title II, § 212, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 321.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsec. (d), was omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689h. Authorization of appropriations.

There are authorized to be appropriated $15,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977 for payments under grants under section 2689f of this title. (Pub. L. 88–164, title II, § 213, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 322.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

PART C.—FACILITIES ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2689t, 2689x of this title.

§ 2689i. Federal share; manner of payment; eligible projects; definition; computation and promulgation of amount.

(a) From allotments made under section 2689o of this title the Secretary shall pay, in accordance with this part, the Federal share of projects for (1) the acquisition or remodeling, or both, of facilities for community mental health centers, (2) the leasing (for not more than twenty-five years) of facilities for such centers, (3) the construction of new facilities or expansion of existing facilities for community mental health centers if not less than 25 per centum of the residents of the centers' catchment areas are members of low-income groups (as determined under regulations prescribed by the Secretary), and (4) the initial equipment of a facility acquired, remodeled, leased, constructed, or expanded with financial assistance provided under payments under this part. Payments shall not be made for the construction of a new facility or the expansion of an existing one unless the Secretary determines that it is not feasible for the recipient to acquire or remodel an existing facility.

(b)(1) For purposes of this part, the term "Federal share" with respect to any project described in

subsection (a) of this section means the portion of the cost of such project to be paid by the Federal Government under this part.

(2) The Federal share with respect to any project described in subsection (a) of this section in a State shall be the amount determined by the State agency of the State, but, except as provided in paragraph (3), the Federal share for any such project may not exceed 66⅔ per centum of the costs of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in a State during any fiscal year, the State agency shall give the Secretary written notification of (A) the maximum Federal share, established pursuant to this paragraph, for such projects in such State which the Secretary approves during such fiscal year, and (B) the method for determining the specific Federal share to be paid with respect to any such project; and such maximum Federal share and such method of Federal share determination for such projects in such State during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

(3) In the case of any community mental health center which provides or will, upon completion of the project for which application has been made under this part, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of the project.

(4)(A) For purposes of paragraph (2), the Federal percentage for (i) Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum, and (ii) any other State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the average per capita income of all such other States.

(B) The Federal percentages under clause (ii) of subparagraph (A) shall be promulgated by the Secretary, between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States subject to such Federal percentages and all of the States subject to such percentages for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation. (Pub. L. 88–164, title II, § 221, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 322.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689j. Approval of projects; submission and contents of application; hearing; definition; prerequisites for approval of application; hearing prior to disapproval; amendment of approved application.

(a) For each project for a community mental health center facility pursuant to a State plan approved under section 2689t of this title, there shall be submitted to the Secretary, through the State agency of the State, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 2689s of this title;

(3) except in the case of a leasing project, reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the community mental health centers;

(4) reasonable assurance that adequate financial support will be available for the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a construction or remodeling project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (sections 276a to 276a–5 of Title 40, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40;

(6) a certification by the State agency of the Federal share for the project; and

(7) the assurances described in section 2689e(c)(2) of this title.

Each applicant shall be afforded an opportunity for a hearing before the State agency respecting its application. For purposes of paragraph (3), the term "title" means a fee simple or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of acquisition, remodeling, construction, or expansion of a facility and its operation.

(b) The Secretary shall approve an application submitted in accordance with subsection (a) of this section if—

(1) sufficient funds to pay the Federal share for the project for which the application was submitted are available from the allotment to the State;

(2) the Secretary finds that the application meets the applicable requirements of subsection (a) of this section and the community mental health center for which the application was submitted will meet the requirements of the State plan (under section 2689t of this title) of the State in which the project is located; and

(3) the Secretary finds that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State, as determined under the State plan.

No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing. The Secretary may not approve an application under this part for a project for a facility for a community mental health center or other entity which received a grant under section 2688, 2688g, 2688h, 2688k, 2688n–1, 2688r, or 2688u of this title (as in effect before July 29, 1975) from appropriations for a fiscal year ending before July 1, 1975, unless the Secretary determines that the application is for a project for a center or entity which upon completion of such project will be able to significantly expand its services and which demonstrates exceptional financial need for assistance under this part for such project. Amendment of any approved application shall be subject to approval in the same manner as an original application. (Pub. L. 88–164, title II, § 222, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 323.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 2688, 2688g, 2688h, 2688k, 2688n–1, 2688r, or 2688u of this title, referred to in subsec. (b), were omitted in the general reorganization and revision of the Community Mental Health Centers Act by the Community Mental Health Centers Amendments of 1975, Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309.

EFFECTIVE DATE

Section effective July 1, 1975, section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689k to 2689m of this title.

§ 2689k. Payments.

(a) Remodeling, construction, or expansion projects, or purchases for such projects; prerequisites; manner of payments; exceptions; maximum amount; additional payments upon approval of amendment to application or revision of estimated cost of project.

(1) Upon certification to the Secretary by the State agency, based upon inspection by it, that work has been performed upon a remodeling, construction, or expansion project, or purchases for such a project have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to subsection (c) of this section, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld in whole or in part, pending corrective action or action based on such hearing, and (3) the total payments with respect to such project may not exceed an amount equal to the Federal share of the cost of such project.

(2) If an amendment to an approved application is approved or the estimated cost of a remodeling, construction, or expansion project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(b) Acquisition and leasing projects; payments from State allotment pursuant to regulations.

Payments from a State allotment for acquisition and leasing projects shall be made in accordance with regulations which the Secretary shall promulgate.

(c) Withholding of payments; prerequisites and procedures.

(1) If the Secretary finds that—

(A) a State agency is not substantially complying with the provisions required by section 2689t of this title to be in a State plan or with regulations issued under section 2689s of this title;

(B) any assurance required to be in an application filed under section 2689j of this title is not being carried out;

(C) there is substantial failure to carry out plans and specifications approved by the Secretary under section 2689j of this title; or

(D) adequate State funds are not being provided annually for the direct administration of a State plan approved under section 2689t of this title,

the Secretary may take the action authorized under paragraph (2) of this subsection if the finding was made after reasonable notice and opportunity for hearing to the involved State agency.

(2) If the Secretary makes a finding described in paragraph (1), he may notify the involved State agency, which is the subject of the finding or which is connected with a project or State plan which is the subject of the finding, that—

(A) no further payments will be made to the State from allotments under section 2689o of this title; or

(B) no further payments will be made from allotments under section 2689o of this title for any project or projects designated by the Secretary as being affected by the action or inaction referred to in subparagraph (A), (B), (C), or (D) of paragraph (1),

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled. (Pub. L. 88–164, title II, § 223, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 325.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689*l* of this title.

§ 2689l. Judicial review; appeal to courts of appeals; petition; record; conclusiveness of findings; review by Supreme Court; stay of administrative action.

If—

(1) the Secretary refuses to approve an application for a project submitted under section 2689j of this title, the State agency through which such application was submitted, or

(2) any State is dissatisfied with the Secretary's action under section 2689k(c) or 2689t(c) of this title, such State,

may appeal to the United States court of appeals for the circuit in which such State agency or State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of facts and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action. (Pub. L. 88–164, title II, § 224, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 326.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689m. Recovery of payments by United States; prerequisites; amount of recovery; procedure; nature of right.

If any facility of a community mental health center acquired, remodeled, constructed, or expanded with funds provided under this part is, at any time within twenty years after the completion of such remodeling, construction, or expansion or after the date of its acquisition with such funds—

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 2689j of this title, or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor; or

(2) not used by a community mental health center in the provision of comprehensive mental health services, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the United States district court for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the acquisition, remodeling, construction, or expansion cost of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment. (Pub. L. 88–164, title II, § 225. as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 326.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this rule.

§ 2689n. Nonduplication of grants.

No grant may be made under the Public Health Service Act for the remodeling, construction, or expansion of a facility for a community mental health center unless the Secretary determines that there are no funds available under this part for the remodeling, construction, or expansion of such facility. (Pub. L. 88–164, title II, § 226, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 327.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in the text, is classified to section 201 et seq. of this title.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689o. Allotments to States; determination of amount; availability of unobligated sums; reallotment of available amounts to other States; determination of amount of reallotment; adjustments to allotments.

(a) In each fiscal year, the Secretary shall, in accordance with regulations, make allotments, from the sums appropriated under section 2689p of this title, to the States (with State plans approved under section 2689t of this title) on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need, of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in any fiscal year may be less than $100,000. Sums so allotted to a State other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted for such State in such next fiscal year. Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to

such State for such purpose in the next two fiscal years (and in such years only), in addition to the sums allotted to such State for such purpose in each of such next two fiscal years.

(b) The amount of an allotment under subsection (a) of this section to a State in a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State in a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section in such fiscal year. (Pub. L. 88–164, title II, § 227, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 327.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689i, 2689k, 2689p, 2689t of this title.

§ 2689p. Authorization of appropriations.

There are authorized to be appropriated $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977, for allotments under section 2689o of this title. (Pub. L. 88–164, title II, § 228, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 327.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689o of this title.

PART D.—RAPE PREVENTION AND CONTROL

§ 2689q. National Center for the Prevention and Control of Rape.

(a) Establishment.

The Secretary shall establish within the National Institute of Mental Health an identifiable administrative unit to be known as the National Center for the Prevention and Control of Rape (hereinafter in this section referred to as the "Center").

(b) Functions; definition.

(1) The Secretary, acting through the Center, may, directly or by grant, carry out the following:

(A) A continuing study of rape, including a study and investigation of—

(i) the effectiveness of existing Federal, State, and local laws dealing with rape;

(ii) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(iii) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(iv) the causes of rape, identifying to the degree possible—

(I) social conditions which encourage sexual attacks, and

(II) the motives of offenders, and

(v) the impact of rape on the victim and the family of the victim;

(vi) sexual assaults in correctional institutions;

(vii) the actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference in such incidences; and

(viii) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

(B) The compilation, analysis, and publication of summaries of the continuing study conducted under subparagraph (A) and the research and demonstration projects conducted under subparagraph (E). The Secretary shall annually submit to the Congress a summary of such study and projects together with recommendations where appropriate.

(C) The development and maintenance of an information clearinghouse with regard to—

(i) the prevention and control of rape;

(ii) the treatment and counseling of the victims of rape and their families; and

(iii) the rehabilitation of offenders.

(D) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

(E) Assistance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (i) for the planning, developing, implementing, and evaluating of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (ii) for the application of such alternative methods; and (iii) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which, sexual attacks are most likely to occur.

(F) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape.

(2) For purposes of this subsection, the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force.

(c) Advisory committee; appointment; functions; membership; compensation; per diem and travel expenses.

The Secretary shall appoint an advisory committee to advise, consult with, and make recommenda-

tions to him on the implementation of subsection (b) of this section. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(d) Authorization of appropriations.

For the purpose of carrying out subsection (b) of this section, there are authorized to be appropriated $7,000,000 for fiscal year 1976, and $10,000,000 for fiscal year 1977. (Pub. L. 88–164, title II, § 231, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 328.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

PART E.—GENERAL PROVISIONS

§ 2689r. Definitions.

For purposes of this subchapter—

(1) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Somoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "State agency" means the State mental health authority for which grants are authorized under section 246(d) of this title.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "National Advisory Mental Health Council" means the National Advisory Mental Health Council established under section 218 of this title.

(Pub. L. 88–164, title II, § 235, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 329.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689s. Regulations; promulgation and required provisions; consultation prior to issuance.

Regulations issued by the Secretary for the administration of this subchapter shall include provisions applicable uniformly to all the States which—

(1) prescribe the general manner in which the State agency of a State shall determine the priority of projects for community mental health centers on the basis of the relative need of the different areas of the State for such centers and their services and require special consideration for projects on the basis of the extent to which a center to be assisted or established upon completion of a project (A) will, alone or in conjunction with other centers owned or operated by the applicant for the project or affiliated or associated with such applicant, provide comprehensive mental health services for residents of a particular community or communities, or (B) will be part of or closely associated with a general hospital;

(2) prescribe general standards for facilities and equipment for centers of different classes and in different types of location; and

(3) require that the State plan of a State submitted under section 2689t of this title provide for adequate community mental health centers for people residing in the State, and provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor.

The National Advisory Mental Health Council shall be consulted by the Secretary before the issuance of regulations under this section. (Pub. L. 88–164, title II, § 236, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 329.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689j, 2689k, 2689t of this title.

§ 2689t. State plans.

(a) Required administrative, and services and facilities provisions.

A State plan for the provision of comprehensive mental health services within a State shall be comprised of the following two parts:

(1) An administrative part containing provisions respecting the administration of the plan and related matters. Such part shall—

(A) provide for the designation of a State advisory council to consult with the State agency in administering such plan, which council shall include (i) representatives of non-government organizations or groups, and of State agencies, concerned with the planning, operation, or use of community mental health centers or other mental health facilities, and (ii) representatives of consumers and providers of the services of such centers and facilities who are familiar with the need for such services;

(B) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) provide that the State agency will from time to time, but not less often than annually, review the State plan and submit to the Secretary appropriate modifications thereof which it considers necessary; and

(D) include provisions, meeting such requirements as the Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis.

(2) A services and facilities part containing provisions respecting services to be offered within the State by community mental health centers and provisions respecting facilities for such centers. Such part shall—

(A) be consistent with the provisions of the State plan prepared in accordance with section 300m–3(c)(2) of this title or the State plan approved under section 246(a) of this title, whichever is applicable, relating to the provision of mental health services;

(B) set forth a program for community mental health centers within the State (i) which is based on a statewide inventory of existing facilities and a survey of need for the comprehensive mental health services described in section 2689(b) of this title; (ii) which conforms with regulations prescribed by the Secretary under section 2689s of this title; and (iii) which shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor;

(C) set forth the relative need, determined in accordance with the regulations prescribed under section 2689s of this title, for the projects included in the program described in subparagraph (B), and, in the case of projects under part C of this subchapter, provide for the completion of such projects in the order of such relative need;

(D) emphasize the provision of outpatient services by community mental health centers as a preferable alternative to inpatient hospital services; and

(E) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this subchapter and provide for enforcement of such standards with respect to projects approved by the Secretary under this subchapter.

(b) Administration or supervision of administration by State agency.

The State agency shall administer or supervise the administration of the State plan.

(c) Regulations prescribing form and manner of submission; approval of plan or modification; notice and hearing prior to disapproval.

A State shall submit a State plan in such form and manner as the Secretary shall by regulation prescribe. The Secretary shall approve any State plan (and any modification thereof) which complies with the requirements of subsection (a) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) Availability of allotments to States for administration of plan provisions relating to projects facilities; amounts available; duration of availability; manner of payment; conditions.

(1) At the request of any State, a portion of any allotment or allotments of such State under section 2689o of this title for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the provisions of the State plan approved under this section which relate to projects under part C of this subchapter for facilities for community mental health centers; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under section 2689o of this title for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year for administration of the provisions of an approved State plan shall be paid on condition that there shall be expended from State sources for each year for administration of such provisions not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968. (Pub. L. 88–164, title II, § 237, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 330.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689e, 2689g, 2689j, 2689k, 2689*l*, 2689o, 2689s of this title.

§ 2689u. Catchment areas of centers; periodic review by designated State health planning and development agency and State mental health authority; purposes of review.

Each State health planning and development agency designated for a State under section 300m of this title shall, in consultation with that State's mental health authority, periodically review the catchment areas of the community mental health centers located in that State to (1) insure that the sizes of such areas are such that the services to be provided through the centers (including their satellites) serving the areas are available and accesssible to the residents of the areas promptly, as appropriate, (2) insure that the boundaries of such areas conform, to the extent practicable, with relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (3) insure that the boundaries of such areas eliminate, to the extent possible, barriers to access to the services of the centers serving the areas, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation. (Pub. L. 88–164, title II, § 238, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 331.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689v. State control of administration, personnel, maintenance or operation of centers.

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exer-

cise any supervision or control over the administration, personnel, maintenance, or operation of any community mental health center with respect to which any funds have been or may be expended under this subchapter. (Pub. L. 88–164, title II, § 239, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 332.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689w. Maintenance of records; audit and examination of books, documents, etc.

(a) Each recipient of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this subchapter. (Pub. L. 88–164, title II, § 240, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 332.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689x. Exclusions from determination of amount of grant.

In determining the amount of any grant under part A, B, or C of this subchapter for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant for such grant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant. (Pub. L. 88–164, title II, § 241, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 332.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689y. Poverty area; determination.

For purposes of any determination by the Secretary under this subchapter as to whether any urban or rural area is a poverty area, the Secretary may not determine that an area is an urban or rural poverty area unless—

(1) such area contains one or more subareas which are characterized as subareas of poverty;

(2) the population of such subarea or subareas constitutes a substantial portion of the population of such rural or urban area; and

(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas.

(Pub. L. 88–164, title II, § 242, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 332.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689z. Protection of personal rights under grants.

In making grants under parts A and B of this subchapter, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research involving surgery which is carried out (in whole or in part) with funds under such grants unless such individual explicitly agrees to become a subject of such research. (Pub. L. 88–164, title II, § 243, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 333.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 2689aa. Reimbursement of centers for mental health services.

The Secretary shall, to the extent permitted by law, work with States, private insurers, community mental health centers, and other appropriate entities to assure that community mental health centers shall be eligible for reimbursement for their mental health services to the same extent as general hospitals and other licensed providers. (Pub. L. 88–164, title II, § 244, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 333.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 12 section 1701q.

§ 2691. Repealed. Pub. L. 94–103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507.

Section, Pub. L. 88–164, title IV, § 401, Oct. 31, 1963, 77 Stat. 296; Pub. L. 90–31, § 4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, §§ 102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54–56; Pub. L. 91–517, title I, § 102(a), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94–63, title III, § 305(a), July 29, 1975, 89 Stat. 333, related to definitions, Federal percentages, and promulgation of percentages. Subject matter is now covered in section 6001 et seq. of this title. See section 6001 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§§ 2693 to 2697b. Repealed. Pub. L. 94–103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507.

Section 2693, Pub. L. 88–164, title IV, § 403, Oct. 31, 1963, 77 Stat. 297; Pub. L. 90–574, title V, § 502, Oct. 15, 1968, 82 Stat. 1012; Pub. L. 91–211, title I, § 103, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(b), July 29, 1975, 89 Stat. 334, related to payments for construction, providing in: subsec. (a) for installments, payments to applicants, withholding of payments, and maximum amounts; subsec. (b) for amendment of application and revision of estimate; and subsec. (c) for use of allotments for cost of administration and limitation of amount. See section 6064(b)(1), (2) of this title.

Section 2694, Pub. L. 88–164, title IV, § 404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(c), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(c), July 29, 1975, 89 Stat. 334, related to appeals, petition, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action. Subject matter is now covered by section 6068 of this title.

Section 2695, Pub. L. 88–164, title IV, § 405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(d), July 29, 1975, 89 Stat. 334, related to recovery of expenditures under certain conditions and is now covered by section 6006 of this title.

Section 2696, Pub. L. 88–164, title IV, § 406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(e), July 29, 1975, 89 Stat. 334, related to State control of operations and is now covered by section 6003 of this title.

Section 2697, Pub. L. 88–164, title IV, § 408, as added Pub. L. 89–105, § 3, Aug. 4, 1965, 79 Stat. 429, related to records and audit and is now covered by section 6004 of this title.

Section 2697a, Pub. L. 88–164, title IV, § 409, as added Pub. L. 90–574, title III, § 304, Oct. 15, 1968, 82 Stat. 1011, related to determination of amount of grants and exclusion of duplicated grants and is now covered by section 6081(c) of this title.

Section 2697b, Pub. L. 88–164, title IV, § 410, as added Pub. L. 91–211, title V, § 504, Mar. 13, 1970, 84 Stat. 62, related to determination of poverty area.

EFFECTIVE DATE OF REPEAL

Sections repealed effective with request to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

Chapter 34.—ECONOMIC OPPORTUNITY PROGRAM

Sec.
2702b. Authorization of appropriations [New].
2706. Definitions [New].
2707. Authorization of appropriations [New].

SUBCHAPTER I.—RESEARCH AND DEMONSTRATIONS

PART A.—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

2711. Congressional statement of purpose [New].
2712. Research, demonstration, and pilot projects [New].
2713. Consultation [New].
2714. Announcement of research, demonstration, and pilot projects [New].
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PART C.—WORK-STUDY PROGRAMS

2756a. Community service learning program [New].
(a) Statement of purpose.
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(c) Agreement with public or private nonprofit agencies.
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(e) Definition of "community service".

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2813. Design and planning assistance programs [New].
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2815. Consumer action and cooperative programs [New].

PART C.—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

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2829. Intergovernmental Advisory Council on Community Services [New].
(a) Establishment.
(b) Membership.
(c) Functions and duties.
(d) Information; copies of grant applications.
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SUBCHAPTER III.—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

PART B.—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

Sec.
2865. Coordination, monitoring, and review of programs [New].

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2901. Establishment of program; stipends and allowances; coordination [New].
2902. Alcoholic Counseling and Recovery Program; Drug Rehabilitation Program [New].

SUBCHAPTER V.—HEADSTART AND FOLLOW THROUGH

PART A.—HEADSTART PROGRAMS

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This chapter referred to in sections 3056a, 3062, 4953, 5031 of this title; title 2 section 452; title 38 section 2013.

§ 2701. Congressional findings and declaration of purpose.

SHORT TITLE OF 1975 AMENDMENTS

Section 1 of Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291, provided: "That this Act [enacting sections 2706, 2707, 2711 to 2715, 2828 to 2830, 2865, 2928 to 2928a, 2929 to 2929c, 2930 to 2930f, 2971f, 2971g, 2981a, 2981b, 2985a to 2985g, 2991 to 2991h, and 2992 to 2992d of this title, amending sections 2790, 2809, 2812, 2813, 2837, 2862, 2871, 2901, 2902, 2921, 2922, 2923, 2932, 2933, 2941, 2942, 2943, 2945, 2965, 2971d, 2974, 2979, 2981, 2982, 2982a, 2982b, 2982c, 2983, 2983a, 2983b, 2984, 2984a, 2985, 2995, 2995a, and 2995b of this title, repealing sections 2703, 2705, 2942 note, and 2949 of this title, and enacting provisions set out as notes under this section and sections 2706, 2865, and 2981 of this title] may be cited as the 'Headstart, Economic Opportunity, and Community Partnership Act of 1974.'"

Section 101 of Pub. L. 88–452, as added by section 3 of Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2292, provided that: "This title and titles II through IX of this Act [subchapters I through IX of this chapter] may be cited as the 'Community Services Act of 1974'."

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–424, Sept. 19, 1972, 86 Stat. 688, provided: "That this Act [which enacted sections 2702b, 2813–2815, 2827, 2971b–2971d, 2981–2985, and 2995–2995d of this title, amended sections 2724, 2742, 2749, 2771, 2791, 2809, 2812, 2824, 2836, 2837, 2862, 2864, 2871, 2907, 2932, 2933, 2943, 2949, 2965, 2966, 2974, 2991, 2992a, 2993, 2993a, 2994b, 2994d, and 3044b of this title, repealed sections 2763–2768 and 2826 of this title, and enacted provisions set out as notes under sections 2942 and 3044b of this title] may be cited as the 'Economic Opportunity Amendments of 1972'."

EXECUTIVE ORDER NO. 11470

Ex. Ord. No. 11470, May 26, 1969, 34 F.R. 8227, set out as a note under this section, which made arrangements for the structure and conduct of a National Voluntary Action Program, was superseded by Ex. Ord. No. 11603, June 30, 1971, 36 F.R. 12675, set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse. For transfer of the National Voluntary Action Program to ACTION as created by Reorg. Plan. No. 1 of 1971, see section 401 of Ex. Ord. No. 11603.

§ 2702. Authorization of appropriations.

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in text, was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417, and the provisions of such subchapter VIII are now covered by section 4951 et seq. of this title.

§ 2702a. Authorization of appropriations.

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in subsec. (b)(8), was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417, and the provisions of such subchapter VIII are now covered by section 4951 et seq. of this title.

§ 2702b. Authorization of appropriations.

(a) For the purpose of carrying out parts A, B, and E of subchapter I of this chapter (relating to work and training) there are authorized to be appropriated $900,300,000 for the fiscal year ending June 30, 1973, and $950,000,000 for the fiscal year ending June 30, 1974.

(b)(1) For the purpose of carrying out the Project Headstart program described in section 2809(a)(1) of this title, there are authorized to be appropriated $485,000,000 for the fiscal year ending June 30, 1973, and $500,000,000 for the fiscal year ending June 30, 1974.

(2) The Secretary of Health, Education, and Welfare shall establish policies and procedures designed to assure that not less than 10 per centum of the total number of enrollment opportunities in the Nation in the Headstart program shall be available for handicapped children (as defined in paragraph (1) of section 602 of the Elementary and Secondary Education Act of 1965, as amended) and that services shall be provided to meet their special needs. The Secretary shall implement his responsibilities under this paragraph in such a manner as not to exclude from any project any child who was participating in the program during the fiscal year ending June 30, 1972. Within six months after September 19, 1972, and at least annually thereafter, the Secretary shall report to the Congress on the status of handicapped children in Headstart programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

(3) For the purpose of carrying out the Follow Through program described in section 2809(a)(2) of this title, there are authorized to be appropriated $70,000,000 annually for the fiscal year ending June 30, 1973, and the succeeding fiscal year.

(c)(1) For the purposes of carrying out subchapters II, III, VI, VII, and IX of this chapter; there are authorized to be appropriated $840,000,000 for the fiscal year ending June 30, 1973, and $870,000,000 for the fiscal year ending June 30, 1974.

(2) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, of the amounts appropriated pursuant to paragraph (1) of this subsection for the fiscal year ending June 30, 1973, and for the succeeding fiscal year, the Director of the Office of Economic Opportunity shall for each such fiscal year reserve and make available not less than $328,900,000 for programs under section 2808 of this title and not less than $71,500,000 for Legal Services programs under section 2809(a)(3) of this title.

(3) The Director shall allocate and make available the remainder of the amounts appropriated for carrying out this chapter for each fiscal year pursuant to paragraph (1) of this subsection (after funds are reserved for the purposes specified in para-

graph (2) of this subsection) in such a manner, subject to the provisions of section 2966 of this title, as to make available with respect to each fiscal year—

(A) not less than $18,000,000 annually to be used for the Alcoholic Counseling and Recovery program described in section 2809(a)(8) of this title; and

(B) not less than $30,000,000 annually to be used for the Emergency Food and Medical Services program described in section 2809(a)(5) of this title.

(d)(1) There are authorized to be appropriated $58,000,000 for the fiscal year ending June 30, 1973, to be used for Domestic Volunteer Service programs under subchapter VIII of this chapter, of which (A) the amount of $44,500,000 shall be available for carrying out full-time volunteer programs designed to strengthen and supplement efforts to eliminate poverty under part A of such subchapter VIII, and (B) the amount of $13,500,000 shall be available (notwithstanding the 10 per centum limitation set forth in the second sentence of section 2993a of this title) for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part B of such subchapter VIII.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full, then such sums as are so appropriated and made available for such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of $37,000,000 shall be used for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part A of such subchapter VIII;

(B) any amounts appropriated in excess of $37,000,000 but not in excess of $50,500,000 shall be used for programs designed to strengthen and supplement efforts to eliminate poverty under part B of such subchapter VIII; and

(C) any amounts appropriated in excess of $50,000,000 shall be used for programs designed to strengthen and supplement efforts to eliminate poverty under part A of such subchapter VIII.

(e) In addition to the amounts authorized to be appropriated and allocated pursuant to subsections (c) and (d) of this section, there are further authorized to be appropriated the sum of $16,000,000 to be used for Domestic Volunteer Service programs under subchapter VIII of this chapter, of which $8,000,000 shall be available for carrying out full-time volunteer programs under part A of such subchapter VIII for ninety days after September 19, 1972 (of which amount $2,000,000 shall be available without regard to the limitation placed on the expenditure of funds by section 2971d of this title for programs, projects, or activities for which academic credit is granted to volunteer participants) and $8,000,000 shall remain available for expenditure in accordance with the provisions of such subchapter during the fiscal year ending June 30, 1973. (Pub. L. 92–424, § 3(a)–(d)(2), (e), Sept. 19, 1972, 86 Stat. 688, 689.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1972, and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in subsecs. (d) and (e), was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417, and the provisions of such subchapter VIII are now covered by section 4951 et seq. of this title.

Section 602 of the Elementary and Secondary Education Act of 1965, as amended, formerly classified to section 872 of Title 20, Education, was repealed by Pub. L. 91–230, title VI, § 662(3), Apr. 13, 1970, 84 Stat. 188, and is now covered by section 1141 of title 20,

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

YOUTH CONSERVATION CORPS

Pub. L. 91–378, Aug. 13, 1970, 84 Stat. 794, as amended by Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066, is now set out as section 1701 et seq. of Title 16, Conservation.

§ 2703. Repealed. Pub. L. 93–644, § 16(b), Jan. 4, 1975, 88 Stat. 2330.

Section, Pub. L. 90–222, title III, § 301, Dec. 23, 1967, 81 Stat. 728, set out criminal provisions covering operations of antipoverty agencies. See section 2971f of this title.

§ 2704. Discontinued Job Corps centers; utilization for special youth programs.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 2705. Repealed. Pub. L. 93–644, § 16(a), Jan. 4, 1975, 88 Stat. 2330.

Section, Pub. L. 91–177, title I, § 115, Dec. 30, 1969, 83 Stat. 833, provided for the withholding of federal taxes by antipoverty agencies. See section 2971g of this title.

§ 2706. Definitions.

As used in subchapters I through IX of this chapter—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(2) the term "United States" when used in a geographical sense includes all those places named in the previous sentence and all other places continental or insular, subject to the jurisdiction of the United States;

(3) the term "financial assistance" when used in subchapter II, part B of subchapter III, and subchapter VIII includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(4) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(5) the term "Administration" means the Community Services Administration; and

(6) the term "Director" means the Director of the Community Services Administration.

(Pub. L. 88–452, § 102, as added Pub. L. 93–644, § 3, Jan. 4, 1975, 88 Stat. 2292.)

CODIFICATION

Another section 102 of Pub. L. 88–452, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2293, is set out as section 2712 of this title.

CONGRESSIONAL STATEMENT OF PURPOSE FOR 1975 AMENDMENT OF ECONOMIC OPPORTUNITY ACT OF 1964 BY HEADSTART, ECONOMIC OPPORTUNITY, AND COMMUNITY PARTNERSHIP ACT OF 1974

Section 2 of Pub. L. 93–644 provided that: "It is the purpose of this Act [see Short Title of 1975 Amendment note under section 2701 of this title] to extend programs under the Economic Opportunity Act of 1964 [this chapter], including Headstart, community action, and community economic development programs; and to provide for increased involvement of State and local governments in anti-poverty efforts by authorizing a community partnership program."

§ 2707. Authorization of appropriations.

(a)(1) For the purpose of carrying out subchapters I, II, III, IV, V, VI, VII, VIII, and IX of this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1975 through 1977.

(2) For the purpose of carrying out the programs authorized under section 2808 of this title there is authorized to be appropriated $330,000,000 for the fiscal year 1975 and such sums as may be necessary for each of the two succeeding fiscal years.

(b) Unless the Congress has passed or formally rejected legislation extending the authorizations of appropriations for carrying out any subchapter of this chapter specified in subsection (a) of this section, or adopts a concurrent resolution providing that the provisions of this subsection shall not apply, the authorizations of appropriations specified in subsection (a) of this section are hereby automatically extended for one additional fiscal year beyond the terminal year specified in this chapter or in this section. (Pub. L. 93–644, § 15, Jan. 4, 1975, 88 Stat. 2329.)

CODIFICATION

Section was enacted as part of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 and not as part of the Economic Opportunity Act of 1964, which comprises this chapter.

SUBCHAPTER I.—RESEARCH AND DEMONSTRATIONS

CODIFICATION

In the original, section 4 of Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2292, provided in part that "Title I of the Economic Opportunity Act of 1964 is amended to read as follows: 'Title II—Research and Demonstrations' ". As such section 4 added sections 101 to 105 to the Economic Opportunity Act of 1964. For purposes of codification such Title II has been redesignated as Title I of the Act, as added by Pub. L. 93–644, and classified as subchapter I of this chapter as the probable intent of Congress.

YOUTH CONSERVATION CORPS

Pub. L. 91–378, Aug. 31, 1970, 84 Stat. 794, as amended by Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319, formerly set out as a note hereunder, originally appropriated funds to carry the program through the fiscal year 1974, and was amended by Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066, to make its provisions permanent. Pub. L. 91–378, as thus amended, has been transferred and is now classified to sections 1701 to 1706 of Title 16, Conservation.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707, 2941 of this title.

PART A.—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

§ 2711. Congressional statement of purpose.

The purpose of the subchapter is to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, including persons of limited English-speaking ability, in rural and urban areas to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient. (Pub. L. 88–452, title I, § 101, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2292.)

CODIFICATION

Another section 101 of Pub. L. 88–452, as added by Pub. L. 93–644, § 3, Jan. 4, 1975, 88 Stat. 2292, is set out as a note under section 2701 of this title.

PRIOR PROVISIONS

A prior section 2711, Pub. L. 88–452, title I, § 101, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, which title I, § 101, Dec. 23, 1967, 81 Stat. 672, set out the Congressional statement of purpose in enacting the Job Corps program, was repealed by Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 911 of Title 29, Labor.

§ 2712. Research, demonstration, and pilot projects.

(a) The Director may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) The Director shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. Such plan shall set forth specific objectives to be achieved and priorities among such objectives. In formulating the plan, the Director shall consult with other Federal agencies for the purpose of minimizing duplication among similar activities or projects and determining whether the findings resulting from any such projects may be incorporated into one or more programs for which those agencies are responsible.

(c) No project shall be commenced under this section unless a plan setting forth such proposed project has been submitted to the chief executive officer of the State in which the project is to be located and such plan has not been disapproved by him within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter,

(d) In making grants or contracts under this subchapter, the Director shall give due consideration to requests for funds by applicants receiving financial assistance under this subchapter in any fiscal year

shall be made available for programs or projects receiving financial assistance under section 2808 or 2828 of this title. (Pub. L. 88–452, title I, § 102, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2293.)

CODIFICATION

Another section 102 of Pub. L. 88–452, as added by Pub. L. 93–644, § 3, Jan. 4, 1975, 88 Stat. 2292, is set out as section 2706 of this title.

PRIOR PROVISIONS

A prior section 2712, Pub. L. 88–452, title I, § 102, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which provided for the establishment of a Job Corps, was repealed by Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 912 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2995 of this title.

§ 2713. Consultation.

In carrying out projects under this subchapter, the Director shall, whenever feasible, arrange to obtain the opinions of program participants about the strengths and weaknesses of programs. (Pub. L. 88–452, title I, § 103, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2293.)

PRIOR PROVISIONS

A prior section 2713, Pub. L. 88–452, title I, § 103, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89–253, §§ 2, 3, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89–794, title I, §§ 101, 102, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which covered the eligibility of individuals for the Job Corps, was repealed by Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 913 of Title 29, Labor.

§ 2714. Announcement of research, demonstration, and pilot projects.

(a) The Director shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor. and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such research, demonstration, or pilot project.

(b) The public announcements required by subsection (a) of this section shall be made within thirty days of making any such grant or contract, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results, findings, data, or recommendations.

(c) The Director shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) The Director shall publish studies of the results of activities carried out pursuant to this subchapter not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such studies. (Pub. L. 88–452, title I, § 104, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2293.)

PRIOR PROVISIONS

A prior section 2714, Pub. L. 88–452, title I, § 104, Aug. 20, 1964, 78 Stat. 509; Pub. L. 89–253, §§ 4, 5, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89–794, title I, §§ 103–108, Nov. 8, 1966, 80 Stat. 1452, 1453; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which provided for the screening and selection of applicants for the Job Corps, was repealed by Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 914 of Title 29, Labor.

§ 2715. Federal control prohibited.

Nothing contained in this subchapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system. (Pub. L. 88–452, title I, § 105, as added Pub. L. 93–644, § 4, Jan. 4, 1975, 88 Stat. 2294.)

PRIOR PROVISIONS

A prior section 2715, Pub. L. 88–452, title I, § 105, Aug. 20, 1964, 78 Stat. 509; Pub. L. 90–222, which title I, § 101, Dec. 23, 1967, 81 Stat. 674, which covered the area of reasonable likelihood of successful participation by Job Corps enrollees, was repealed by Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 915 of Title 29, Labor.

§§ 2716 to 2729. Repealed. Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883.

Section 2716, Pub. L. 88–452, title I, § 106, Aug. 20, 1964, 78 Stat. 510; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 674, covered enrollment and assignment of Job Corps enrollees. See section 916 of Title 29.

Section 2717, Pub. L. 88–452, title I, § 107, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 675, provided for the establishment of Job Corps centers. See section 917 of Title 29.

Section 2718, Pub. L. 88–452, title I, § 108, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 676, covered Job Corps program activities. See section 918 of Title 29.

Section 2719, Pub. L. 88–452, title I, § 109, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 676, covered allowances and support for Job Corps enrollees. See section 919 of Title 29.

Section 2720, Pub. L. 88–452, title I, § 110, Aug. 20, 1964, 78 Stat. 511; Pub. L. 89–253, § 7, Oct. 9, 1965, 79 Stat. 974; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 677, set out standards of conduct and discipline for Job Corps enrollees. See section 920 of Title 29.

Section 2721, Pub. L. 88–452, title I, § 111, as added Pub. L. 89–794, title I, § 110, Nov. 8, 1966, 80 Stat. 1453, and amended Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 677, covered community participation in Job Corps activities. See section 921 of Title 29.

Section 2722, Pub. L. 88–452, title I, § 111–1, as added by Pub. L. 89–794, title I, § 111, Nov. 8, 1966, 80 Stat. 1454, provided for experimental and demonstration projects and required the Director to report to Congress no later than March 1, 1968.

Section 2723, Pub. L. 88–452, title I, § 112, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 678, provided for counseling and job placement. See section 922 of Title 29.

Section 2724, Pub. L. 88–452, title I, § 113, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 679, and amended Pub. L. 92–424, § 27(b)(1), Sept. 19, 1972, 86 Stat. 705, covered experimental and development projects. See section 923 of Title 29.

Section 2725, Pub. L. 88–452, title I, § 114, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 680, covered advisory boards and committees. See section 924 of Title 29.

Section 2726, Pub. L. 88–452, title I, § 115, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 680, covered participation of States. See section 925 of Title 29.

Section 2727, Pub. L. 88–452, title I, § 116, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 681, and amended Pub. L. 90–623, § 5(a), Oct. 22, 1968, 82 Stat. 1315, covered the application of provisions of Federal law. See section 926 of Title 29.

Section 2728, Pub. L. 88–452, title I, § 117, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 682, set out certain special limitations. See section 927 of Title 29.

Section 2729, Pub. L. 88–452, title I, § 118, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 682, prohibited political discrimination and political activity. See section 928 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93–203, set out in part as a note under section 801 of Title 29.

PART B.—WORK AND TRAINING FOR YOUTH AND ADULTS

§§ 2737 to 2749. Repealed. Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883.

Section 2737, Pub. L. 88–452, title I, § 120, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, set out the Congressional statement of purpose in enacting provisions for a program of work and training for youth and adults. See section 811 et seq. of Title 29.

Section 2738, Pub. L. 88–452, title I, § 121, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, covered community program areas and comprehensive work and training programs. See section 811 et seq. of Title 29.

Section 2739, Pub. L. 88–452, title I, § 122, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, set out provisions covering prime sponsors and delegate agencies. See section 812 of Title 29.

Section 2740, Pub. L. 88–452, title I, § 123, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 684, set out the eligible activities for work and training programs. See section 811 et seq. of Title 29.

Section 2741, Pub. L. 88–452, title I, § 124, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, and amended Pub. L. 90–575, title V, § 503, Oct. 16, 1968, 82 Stat. 1062, set out special conditions for programs. See section 983 of Title 29.

Section 2742, Pub. L. 88–452, title I, § 125, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, and amended Pub. L. 92–424, § 5, Sept. 19, 1972, 86 Stat. 690, covered program participants. See section 983 of Title 29.

Section 2743, Pub. L. 88–452, title I, § 126, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, made provision for programs dealing with long-term unemployment of persons fifty-five years and older. See section 874 of Title 29.

Section 2744, Pub. L. 88–452, title I, § 127, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for pilot projects. See section 811 et seq. of Title 29.

Section 2745, Pub. L. 88–452, title I, § 128, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, covered technical assistance and training. See section 874 of Title 29.

Section 2746, Pub. L. 88–452, title I, § 129, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for the role to be played by States. See section 811 et seq. of Title 29.

Section 2747, Pub. L. 88–452, title I, § 130, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for the equitable distribution of assistance. See section 811 et seq. of Title 29.

Section 2748, Pub. L. 88–452, title I, § 131, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, set limitation on Federal assistance. See section 984 of Title 29.

Section 2749, Pub. L. 88–452, title I, § 132, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 688, and and amended Pub. L. 92–424, § 27(b)(1), (3), Sept. 19, 1972, 86 Stat. 705, provided for the development and implementation of program data. See section 881 et seq. of Title 29.

EFFECTIVE DATE OF REPEAL

Section 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93–203, set out in part as a note under section 801 of Title 29.

PART C.—WORK-STUDY PROGRAMS

CODIFICATION

This part is part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329, and not part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, which Act comprises this chapter.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2702 of this title; title 20 sections 1070b–1, 1070e, 1078, 1088, 1088a, 1088b, 1088c, 1088d, 1088f, 1088g.

§ 2751. Statement of purpose; authorization of appropriations.

(a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students with great financial need, in eligible institutions who are in need of the earnings from such employment to pursue courses of study at such institutions.

(b) There are authorized to be appropriated $225,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $320,000,000 for the fiscal year ending June 30, 1971, $330,000,000 for the fiscal year ending June 30, 1972, $360,000,000 for the fiscal year ending June 30, 1973, $390,000,000 for the fiscal year ending June 30, 1974, and $420,000,000 for the fiscal year ending June 30, 1975, to carry out this part. (As amended Pub. L. 92–318, title I, §§ 135, 135A(a), June 23, 1972, 86 Stat. 270.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318, § 135, substituted "with great financial need" for "from low-income families".

Subsec. (b). Pub. L. 92–318, § 135A(a), authorized appropriations of $330,000,000, 360,000,000, $390,000,000, and $420,000,000 for fiscal years ending June 30, 1972, 1973, 1974, and 1975, respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 135A(b) of Pub. L. 92–318 provided that "The amendment made by subsection (a) [to subsec. (b) of this section] shall be effective after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1070a.

§ 2752. Allotments to States.

(a) Allotments for Puerto Rico, Guam, American Samoa, Trust Territory of the Pacific Islands, and Virgin Islands.

From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall (1) allot not to exceed 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the

Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part. Ninety per centum of the remainder of such sums shall be allotted among the States as provided in subsection (b) of this section, and (2) reserve the amount provided by subsection (e) of this section.

* * * * *

(c) Equitable criteria for allotment of remainder sums; consolidation of allotments.

Sums remaining after making the allotments provided for in other provisions of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria established by him which shall be designated to achieve a distribution of the sums appropriated to carry out this part among the States which will most effectively carry out the purpose of this part, except that where a State's allotment under subsection (b) of this section for a fiscal year is less than its allotment under that subsection for the fiscal year ending June 30, 1972, before he makes any other allotments under this subsection, the Commissioner shall allot sufficient additional sums to such State under this sentence to make the State's allotment for that year under subsection (b) equal to its allotment under such subsection for the fiscal year ending June 30, 1972. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment from the same appropriation under subsection (b) of this section.

(d) Reallotments; availability of amounts

The amount of any State's allotment which has not been granted to an eligible institution under section 2753 of this title at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner, in such manner as he determines will best assist in achieving the purposes of the Higher Education Act of 1965. Amounts reallotted under this subsection shall be available for making grants under section 2753 of this title until the close of the fiscal year next succeeding the fiscal year for which appropriated.

(e) Definition of State.

For purposes of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(f) Reservation from appropriations for work-study assistance to students resident in American Samoa or the Trust Territory of the Pacific Islands.

From the appropriation for this part for each fiscal year the Commissioner shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students. (As amended Pub. L. 92–318, title I, § 135B, June 23, 1972, 86 Stat. 270.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–138, § 135B(a)(2), substituted "Ninety per centum of the remainder" for "The remainder".

Subsec. (c). Pub. L. 92–318, § 135B(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d)–(f). Pub. L. 92–318, § 135B(a)(2), redesignated former subsecs. (c)–(e) as (d)–(f), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2756a of this title; title 20 section 1088e.

§ 2753. Grants for work-study programs; agreements with eligible institutions; definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2756 of this title.

§ 2754. Agreements with eligible institutions.

(a) Conditions.

An agreement entered into pursuant to section 2753 of this title shall—

* * * * *

(3) provide that in the selection of students for employment under such work-study program preference shall be given to students with the greatest financial need, taking into account grant assistance provided such student from any public or private sources and that employment under such work-study program shall be furnished only to a student who (A) is in need of the earnings from such employment in order to pursue a course of study at such institution (taking into consideration the actual cost of attendance at such institution), (B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and (C) has been accepted for enrollment as a student at the institution on at least a half-time basis or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there on at least a half-time basis either as an undergraduate, graduate, or professional student;

(4) Repealed. Pub. L. 92–318, title I, § 135E(b), June 23, 1972, 86 Stat. 271.

* * * * *

(As amended Pub. L. 92–318, title I, §§ 135C(a)(1), 135D, 135E, June 23, 1972, 86 Stat. 271.)

AMENDMENTS

1972—Subsec. (a)(3). Pub. L. 92–318, § 135E(a)(1), substituted "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources" for "from low-income families".

Subsec. (a)(3)(A). Pub. L. 92–318, § 135C(a)(1), inserted after "such institution" the phrase "(taking into consideration the actual cost of attendance at such institution)".

Subsec. (a)(3)(B). Pub. L. 92–318, § 135E(a)(2), substituted "shows evidence of academic or creative promise and capability of maintaining good standing" for "is capable, in the opinion of the institution, of maintaining good standing".

Subsec. (a)(3)(C). Pub. L. 92–318, § 135D, substituted "enrollment as a student at the institution on at least a half-time basis or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there on at least a half-time basis", for "enrollment as a full-time student at the institution or, in the case of a student already enrolled in and attending the institution, is in good standing and in full-time attendance there".

Subsec. (a)(4). Pub. L. 92–318, § 135E(b), struck out cl. (4) limitation that average hours of employment of a student under the work-study program shall not exceed fifteen per week over a semester, or other term used by the institution in awarding credits, during which the student is enrolled in classes.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 135C(a)(2) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [to subsec. (a)(3)(A) of this section] shall be effective on and after July 1, 1971, with respect to appropriations for fiscal years beginning on and after July 1, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to section 2756a of this title.

§ 2756. Equitable distribution of assistance.

(a) The Commissioner shall establish criteria designed to achieve such distribution of assistance under this part among eligible institutions within a State as will most effectively carry out the purposes of the Higher Education Act of 1965.

(b) Sums granted to an eligible institution under this part for any fiscal year which are not needed by that institution to operate work-study programs during the period for which such funds are available shall remain available to the Commissioner for making grants under section 2753 of this title to other institutions in the same State until the close of the fiscal year next succeeding the fiscal year for which such funds were appropriated. (As amended Pub. L. 94–43, § 2, June 28, 1975, 89 Stat. 233.)

AMENDMENTS

1975—Pub. L. 94–43 designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5 of Pub. L. 94–43 provided that:

"(a) The amendment made by the provisions of section 2 of this Act [enacting subsec. (b) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1974.

"(b) Subsections (b) and (d) of section 431 of the General Education Provisions Act [section 1232 (b) and (d) of Title 20, Educational] shall not operate to delay the effectiveness of regulations issued by the Commissioner of Education to implement the provisions of this Act [see Short Title note under this section]."

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–43 provided: "That this Act [amending this section and section 1615 of Title 20, Education, and enacting provisions set out as notes under this section and section 1070a of Title 20] may be cited as the 'Emergency Technical Provisions Act'."

§ 2756a. Community service learning program.

(a) Statement of purpose.

The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

(b) Authorization of appropriations.

There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 each succeeding fiscal year ending prior to July 1, 1975, to carry out this section through local project grants, without regard to the provisions of section 2752 of this title.

(c) Agreement with public or private nonprofit agencies.

The Commissioner is authorized to enter into agreements with public or private nonprofit agencies under which the Commissioner will make grants to such agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services and which are of educational value.

(d) Same; conditions.

An agreement entered into under subsection (c) above shall—

(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community;

(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, in recruiting students in eligible institutions for jobs under this section, and that the agency, in cooperation with the institution of higher education which the student attends, will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college students services to the community;

(3) conform with the provisions of clauses (1)(A), (1)(B) and (1)(C) of section 2754(a) of this title, and provide for the selection of students who meet the requirements of clauses (3)(A), (3)(B) and (3)(C) of section 2754(a) of this title; and

(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section, including provisions for oversight by the institution of higher education which the student participating in such a program attends.

(e) Definition of "community service".

For purposes of this section, the term "community service" includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement. (Pub. L. 89–329, title IV, § 447, as added Pub. L. 92–318, title I, § 135F, June 23, 1972, 86 Stat. 271.)

PART D.—SPECIAL IMPACT PROGRAMS

§ 2763 to 2768. Repealed. Pub. L. 92–424, § 25(b), Sept. 19, 1972, 86 Stat. 703.

Sections, Pub. L. 88–452, title I, §§ 150–155, added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 688–690, provided for special impact programs as follows:

section 2763, Congressional statement of purpose;
section 2764, establishment of programs;
section 2765, requirements for financial assistance: conditions, relocation of establishments, substitution of funds, and limitation of funds;
section 2766, application of other Federal resources;
section 2767, evaluation; and
section 2768, Federal share of program costs;

Subject matter is now covered by subchapters VII and IX of this chapter.

PART E.—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

§§ 2769 to 2769f. Repealed. Pub. L. 93–203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883.

Section 2769, Pub. L. 88–452, title I, § 161, as added Pub. L. 921–177, title II, § 201, Dec. 30, 1969, 83 Stat. 833, set

out the Congressional statement of purpose in providing for special work and career development programs. See section 811 et seq. of Title 29, Labor.

Section 2769a, Pub. L. 88–452, title I, § 162, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 834, provided for special programs for the unemployed. See section 811 et seq. of Title 29.

Section 2769b, Pub. L. 88–452, title I, § 163, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 834, provided for the establishment of internal administrative procedures by the Director covering special work and career development programs. See section 982 of Title 29.

Section 2769c, Pub. L. 88–452, title I, § 164, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out certain special conditions covering special work and career development programs. See section 984 of Title 29.

Section 2769d, Pub. L. 88–452, title I, § 165, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out criteria for program participants. See section 811 et seq. of Title 29.

Section 2769e, Pub. L. 88–452, title I, § 166, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out criteria for equitable distribution of assistance among States. See section 811 et seq. of Title 29.

Section 2769f, Pub. L. 88–452, title I, § 167, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 836, set limitations on Federal assistance. See section 984 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 614 of Pub. L. 93–203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93–203, set out in part as a note under section 801 of Title 29.

PART F.—DURATION OF PROGRAMS

§ 2771. Duration of programs.

CODIFICATION

Section Pub. L. 88–452, title I, § 171, formerly 141, as added Pub. L. 89–794, title I, § 114, Nov. 8, 1966, 80 Stat. 1456, renumbered 161, Pub. L. 90–222, title I, § 111(b), Dec. 23, 1967, 81 Stat. 726, and renumbered 171 and amended Pub. L. 91–177, title I, § 101(a), title II, § 201, Dec. 30, 1969, 83 Stat. 827, 833; Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688, directing that the programs under this subchapter be carried out during the fiscal year ending June 30, 1967, and the eight succeeding fiscal years, and that in each such fiscal year only such sums might be appropriated as the Congress might authorize by law has been omitted in view of the repeal of all the sections authorizing the covered programs.

SUBCHAPTER II.—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702b, 2706, 2707, 2941, 2944, 3103, 5012 of this title.

§ 2781. Congressional statement of purpose.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

PART A.—COMMUNITY ACTION AGENCIES AND PROGRAMS

§ 2790. Designation of community action agencies.

(a) Political subdivisions; public and private nonprofit agencies and organizations; Indian tribal government.

A community action agency shall be a State or political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or a public or private nonprofit agency or organization which has been designated by a State or such a political subdivision or combination of such subdivisions, or an Indian tribal government, which—

* * * * *

(f) Delegation of functions.

In carrying out his responsibilities under this part the Director may delegate functions other than policymaking functions and the final approval of grants and contracts to a State, in accordance with criteria and guidelines established by him, such functions as he deems appropriate, except that no such delegation shall take place unless all the community action agencies within such State formally indicate their approval of such proposed delegation, except that whenever such delegated functions include the authority to approve programs within such State the Director shall make available to the State, in addition to an amount not less than the amount made available to such State for State agency assistance under section 2824 of this title in the previous fiscal year, an amount in each fiscal year equal to such State's share (as determined by the formula set forth in the second sentence of section 2828(a) of this title) of the aggregate amount made available during the fiscal year ending June 30, 1974, for the operation of regional offices of the Office of Economic Opportunity. (As amended Pub. L. 93–644, § 5(a), (b), Jan. 4, 1975, 88 Stat. 2294.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–644, § 5(a)(1), substituted "such subdivisions, or an Indian tribal government, which" for "such subdivisions, which".

Subsec. (f) Pub. L. 93–644, § 5(a)(2), (b), added subsec. (f). A former subsec. (f), directing that tribal governments of Indian reservations be deemed political subdivisions of States for purposes of this subchapter, was stricken.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2791, 2828, 2995 of this title.

§ 2791. Community action agencies and boards.

* * * * *

(b) Make-up of boards; membership; term of service.

Each board to which this subsection applies shall consist of not more than fifty-one members and shall be so constituted that (1) one-third of the members of the board are elected public officials, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement, (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure

that they are representative of the poor in the area served, and (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area he represents. No person selected under clause (2) or (3) of this subsection as a member of a board shall serve on such board for more than five consecutive years, or more than a total of ten years.

* * * * *

(g) Sabbath Days; prohibition of elections or other democratic selection procedures.

The Director shall ensure that no election or other democratic selection procedure conducted pursuant to clause (2) of subsection (b), or pursuant to clause (2) of subsection (f) of this section, shall be held on a Sabbath Day which is observed as a day of rest and worship by residents in the area served. (As amended Pub. L. 92–424, §§ 6, 7, Sept. 19, 1972, 86 Stat. 690.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–424, § 7, substituted "elected public officials, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement", for "public officials, including the chief elected official or officials, or their representatives, unless the number of such officials reasonably available or willing to serve is less than one-third of the membership of the board", and increased limitation on term of service as member of board from "three" to "five" consecutive years and from "six" to "ten" years of total service.

Subsec. (g). Pub. L. 92–424, § 6, added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2824 of this title.

PART B.—FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS AND RELATED ACTIVITIES

§ 2808. General provisions for financial assistance.

COMMUNITY ACTION PROGRAM POWERS NOT SUBJECT TO DELEGATION

Prohibition against delegation of Director functions under this section to any other agency, see section 28 of Pub. L. 92–424, Sept. 19, 1972, 86 Stat. 705, set out as a note under section 2942 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702b, 2707, 2712, 2809, 2812 of this title.

§ 2809. Special programs and assistance.

(a) Authority of Director; conditions and criteria.

In order to stimulate actions to meet or deal with particularly critical needs or problems of the poor which are common to a number of communities, the Director may develop and carry on special programs under this section. This authority shall be used only where the Director determines that the objectives sought could not be effectively achieved through the use of authorities under section 2808 of this title, including assistance to components or projects based on models developed and promulgated by him. It shall also be used only with respect to programs which (A) involve activities which can be incorporated into or be closely coordinated with community action programs, (B) involve significant new combinations of resources of new and innovative approaches, or (C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of this subchapter. Subject to such conditions as may be appropriate to assure effective and efficient administration, the Director may provide financial assistance to public or private nonprofit agencies to carry on local projects initiated under such special programs; but he shall do so in a manner that will encourage, wherever feasible, the inclusion of the assisted projects in community action programs, with a view to minimizing possible duplication and promoting efficiencies in the use of common facilities and services, better assisting persons or families having a variety of needs, and otherwise securing from the funds committed the greatest possible impact in promoting family and individual self-sufficiency. Programs under this section shall include those described in the following paragraphs:

(1), (2) Repealed. Pub. L. 93–644, § 5(c)(1), (2), Jan. 4, 1975, 88 Stat. 2294.

(3) Repealed. Pub. L. 93–355, § 3(d)(2), July 25, 1974, 88 Stat. 390.

(4) Comprehensive Health Services.

A "Comprehensive Health Services" program which shall include—

(A) programs to aid in developing and carrying out comprehensive health services projects focused upon the needs of urban and rural areas having high concentrations or proportions of poverty and marked inadequacy of health services for the poor. These projects shall be designed—

* * * * *

(ii) to assure that these services are made readily accessible to low-income residents of such areas, are furnished in a manner most responsive to their needs and with their participation and wherever possible are combined with, or included within, arrangements for providing employment, education, social, or other assistance needed by the families and individuals served: *Provided, however,* That pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance.

* * * * *

(5) Emergency Food and Medical Services.

A program to be known as "Emergency Food and Medical Services" designed to provide on an emergency basis, directly or by delegation of authority pursuant to the provisions of subchapter VI of this chapter, financial assistance for the provisions of such medical supplies and services, nutritional foodstuffs, and related services, as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assist-

ance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided and without regard to the requirements of such laws for local or State administration or financial participation. In extending such assistance, the Director may make grants to community action agencies or local public or private nonprofit organizations or agencies to carry out the purposes of this paragraph. The director is authorized to carry out the functions under this paragraph through the Secretary of Agriculture and the Secretary of Health, Education, and Welfare in a manner that will insure the availability of such medical supplies and services, nutritional foodstuffs, and related services through a community action agency where feasible, or other agencies or organizations if no such agency exists or is able to administer programs to provide such foodstuffs, medical services, and supplies to needy individuals and families.

(6) Repealed. Pub. L. 93–644, § 5(c)(3), Jan. 4, 1975, 88 Stat. 2294.

(7) Senior Opportunities and Services.

A program to be known as "Senior Opportunities and Services" designed to identfy and meet the needs of older, poor persons above the age of 60 in one or more of the following areas: development and provision of new employment and volunteer services; effective referral to existing health, welfare, employment, housing, legal, consumer, transportation, education, and recreational and other services; stimulation and creation of additonal services and programs to remedy gaps and deficiencies in presently existing services and programs; modification of existing procedures, eligibility requirements and program structures to facilitate the greater use of, and participation in, public services by the older poor; development of all-season recreation and service centers controlled by older persons themselves; and such other activities and services as the Director may determine are necessary or specially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency. In administering this program the Director shall utilize to the maximum extent feasible the services of the Administration of Aging in accordance with agreements with the Secretary of Health, Education, and Welfare.

(8), (9) Repealed. Pub. L. 93–644, § 5(c)(4), (5), Jan. 4, 1975, 88 Stat. 2294.

(10) Environmental Action.

An "Environmental Action" program through which low-income persons will be paid for work (which would not otherwise be performed) on projects designed to combat pollution or to improve the environment. Projects may include, without limitation: cleanup and sanitation activities, including solid waste removal; reclamation and rehabilitation of eroded or ecologically damaged areas, including areas affected by strip mining; conservation and beautification activities, including tree planting and recreation area development; the restoration and maintenance of the environment; and the improvement of the quality of life in urban and rural areas.

(11) Rural Housing Development and Rehabilitation; services of enrollees in Mainstream programs; loans: repayment period, interest rate, waiver of interest, annual recertification of family income and adjustment of monthly loan payments.

A program to be known as "Rural Housing Development and Rehabilitation" designed to assist low-income families in rural areas to construct and acquire ownership of adequate housing, to rehabilitate or repair existing substandard units in such areas, and to otherwise assist families in obtaining standard housing. Financial assistance under this paragraph shall be provided to nonprofit rural housing development corporations and cooperative serving areas which are defined by the Farmers Home Administration as rural areas, and shall be used for, but not limited to, such purposes as administrative expenses; revolving development funds; nonrevolving land, land development and construction writedowns; rehabilitation or repair of substandard housing; and loans to low-income families. In the construction, rehabilitation, and repair of housing for low-income families under this paragraph, the services of persons enrolled in Mainstream programs may be utilized. Loans under this paragraph may be used for, but not limited to, such purposes as the purchase of new housing units, the repair, rehabilitation and purchase of existing units, and to supplement existing Federal loan programs in order that low-income families may benefit from them. The repayment period of such loans shall not exceed thirty-three years. No loans under this paragraph shall bear an interest rate of less than 1 per centum per annum, but if the Director, after having examined the family income of the applicant, the projected housing costs of the applicant, and such other factors as he deems appropriate, determines that the applicant would otherwise be unable to participate in this program, he may waive the interest in whole or in part and for such periods of time as he may establish except that (1) no such waiver may be granted to an applicant whose adjusted family income (as defined by the Farmers Home Administration) is in excess of $3,700 per annum and (2) any applicant for whom such a waiver is provided shall be required to commit at least 20 per centum of his adjusted family income toward the mortgage debt service and other housing costs. Family incomes shall be recertified annually, and monthly payments for all loans under this paragraph adjusted accordingly.

(12) Emergency Energy Conservation Services.

A program to be known as "Emergency Energy Conservation Services" designed to enable low-income individuals and families, including the elderly and the near poor, to participate in energy conservation programs designed to lessen the impact of the high cost of energy on such individuals

and families and to reduce individual and family energy consumption. The Director is authorized to provide financial and other assistance for programs and activities, including, but not limited to, an energy conservation and education program; winterization of old or substandard dwellings, improved space conditioning, and insulation; emergency loans, grants, and revolving funds to install energy conservation technologies and to deal with increased housing expenses relating to the energy crisis; alternative fuel supplies, special fuel voucher or stamp programs; alternative transportation activities designed to save fuel and assure continued access to training, education, and employment; appropriate outreach efforts; furnishing personnel to act as coordinators, providing legal or technical assistance, or otherwise representing the interests of the poor in efforts relating to the energy crisis; nutrition, health, and other supportive services in emergency cases; and evaluation of programs and activities under this paragraph. Such assistance may be provided as a supplement to any other assistance extended under the provisions of this chapter or under other provisions of Federal law. The Director, after consultation with the Administrator of the Federal Energy Office and appropriate Federal departments and agencies shall establish procedures and take other appropriate action necessary to insure that the effects of the energy crisis on low-income persons, the elderly, and the near poor are taken into account in the formulation and administration of programs relating to the energy crisis.

(13) Summer Youth Recreation.

A program to be known as "Summer Youth Recreation" designed to provide recreational opportunities for low-income children during the summer months. Funds made available for this section shall be allocated by the Director, after consultation with the Secretary of Labor, among prime sponsors and other agencies designated under title I of the Comprehensive Employment and Training Act of 1973 on the basis of (1) the relative number of public assistance recipients in the area served by such prime sponsor or agency, as compared to the Nation; (2) the relative number of unemployed persons in such area as compared with the Nation; and (3) the relative number of related children living with families with incomes below the poverty line in such area, as compared to the Nation. That part of any allotment which the Director determines will not be needed may be reallotted, at such dates during the fiscal year as the Director may fix, to the extent feasible, in proportion to the original allotments. In making allocations under this section, the Director shall insure, to the maximum extent possible, that for the program commencing in the fiscal year ending June 30, 1975, and for the program in each succeeding fiscal year no prime sponsor or other designated agency shall receive an amount less than the amount received for such programs during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, whichever is higher.

(As amended Pub. L. 92–424, §§ 8–11, Sept. 19, 1972, 86 Stat. 690, 691; Pub. L. 93–202, Dec. 28, 1973, 87 Stat. 838; Pub. L. 93–355, § 3(d)(2), July 25, 1974, 88 Stat. 390; Pub. L. 93–644, § 5(c), (d)(1), Jan. 4, 1975, 88 Stat. 2294.)

REFERENCES IN TEXT

Title I of the Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(13), is classified to section 811 et seq. of Title 29, Labor.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93–644, § 5(c)(1), repealed subsec. (a)(1) which had made provision for a "Project Headstart" program. See section 2928 of this title.

Subsec. (a)(2). Pub. L. 93–644, § 5(c)(2), repealed subsec. (a)(2) which had made provision for a "Follow Through" program. See section 2929 of this title.

Subsec. (a)(6). Pub. L. 93–644, § 5(c)(3), repealed subsec. (a)(6) which had made provision for a "Family Planning" program.

Subsec. (a)(8). Pub. L. 93–644, § 5(c)(4), repealed subsec. (a)(8) which had made provision for an "Alcoholic Counseling and Recovery" program. See section 2902 of this title.

Subsec. (a)(9). Pub. L. 93–644, § 5(c)(5), repealed subsec. (a)(9) which had made provision for a "Drug Rehabilitation" program. See section 2902 of this title.

Subsec. (a)(12), (13). Pub. L. 93–644, § 5(d)(1), added subsecs. (a)(12) and (13).

1974—Subsec. (a)(3). Pub. L. 93–355 struck out subsec. (a)(3) which had made provision for a "Legal Services" program. See section 2996 et seq. of this title.

1973—Subsec. (a)(1). Pub. L. 93–202 substituted provisions that the Secretary shall defer the implementation of a fee schedule established under this paragraph until July 1, 1975, for provisions that the Secretary may defer, but not later than April 1, 1973, the establishment of a fee schedule under this paragraph upon certification that the establishment of such fee schedule would hinder the orderly operation of such projects prior to such time.

1972—Subsec. (a)(1). Pub. L. 92–424, § 8, substituted for former provisions requiring a family which is not low income to make payment, or have payment made in its behalf, in whole or in part for services where family's income is, or becomes through employment or otherwise, such as to make such payment appropriate, provisions respecting payment in accordance with a fee schedule established by the Secretary not later than Apr. 1, 1973, under a certification of the Secretary, payment by third parties, computation of charges in cls. (i) and (ii) and for additional children, prohibition of charges when annual family income below prescribed amount, order of use of funds, and reservation of funds for projects based upon aggregate amount received during prior fiscal year.

Subsec. (a)(4)(A)(ii). Pub. L. 92–424, § 9, substituted in the proviso "pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance" for "such services may be available on an emergency basis or pending a determination of eligibility to all residents of such areas".

Subsec. (a)(8). Pub. L. 92–424, § 10(a), struck out end sentence requiring the Director to reserve and make available for the Alcoholic Counseling and Recovery program, out of appropriations or allocations for programs under this subchapter, a minimum of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

Subsec. (a)(9). Pub. L. 92–424, § 10(b), authorized special programs and assistance for employment opportunities and maintenance in employment, giving priority to veterans and employers of significant numbers of veterans and making clients eligible for completion of rehabilitation course though becoming non-low-income, but retaining income eligibility critera for intitial admission

to treatment and rehabilitation, and struck out former end sentence requiring the Director reserve and make available for the Drug Rehabilitation program, out of appropriations or allocations for programs under this subchapter, a minimum of $5,000,000 and $15,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

Subsec. (a)(10), (11). Pub. L. 92–424, § 11, added pars. (10) and (11).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(d)(2) of Pub. L. 93–355 provided in part that the repeal of subsec. (a)(3) of this section shall become effective ninety days after the first meeting of the Board of Directors of the Legal Services Corporation established under section 2996b of this title.

SENIOR OPPORTUNITIES AND SERVICES; ADDITIONAL APPROPRIATIONS AUTHORIZATION

Pub. L. 93–29, title VIII, § 805, May 3, 1973, 87 Stat. 60, as amended by Pub. L. 94–135, title II, § 203, Nov. 28, 1975, 89 Stat. 726, provided that: "In addition to the amounts authorized to be appropriated and allocated pursuant to the Economic Opportunity Amendments of 1972 [set out under section 2701 of this title], there is further authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and the succeeding five fiscal years and the period beginning July 1, 1976, and ending September 30, 1976, to be used for the Senior Opportunities and Services program described in section 222(a)(7) of the Community Services Act of 1974 [subsec. (a)(7) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702a, 2702b, 2812, 2944, 2996f of this title; title 20 section 1087ee.

§ 2812. Allotment of funds; limitations on assistance.

(a) Of the sums which are appropriated or allocated for assistance in the development and implementation of community action programs pursuant to section 2808 of this title, and for special program projects referred to in section 2809(a) of this title, and which are not subject to any other provision governing allotment or distribution, the Director shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. He shall also reserve not more than 20 per centum of those sums for allotment in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, (2) the relative number of unemployed persons in each State as compared to all States, and (3) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States. For purposes of this subsection, the Director shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census. The Director shall insure that for the fiscal year ending June 30, 1975, and for each succeeding fiscal year, no State shall be allotted for programs under section 2808 and section 2809(a) of this title an amount which is less than the amount received for use within such State for programs described in such sections during the fiscal year ending June 30, 1974. That part of any State's allotment which the Director determines will not be needed may be reallotted, at such dates during the fiscal year as the Director may fix, in proportion to the original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

* * * * *

(c) Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to sections 2808 and 2809(a) of this title, for the period ending June 30, 1967, shall not exceed 80 per centum of the approved cost of the assisted programs or activities with respect to fiscal year 1975, and 70 per centum of such costs with respect to fiscal year 1976, and shall not exceed 60 per centum of such costs with respect to fiscal year 1977, except that in the case of community action agencies receiving such financial assistance annually of $300,000 or less, such financial assistance shall not exceed 75 per centum of such costs with respect to fiscal year 1976, and shall not exceed 70 per centum of such costs with respect to fiscal year 1977. The Director may, however, approve assistance in excess of such percentages if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant equipment, or services. The Director shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this chapter. If in any fiscal year, a community provides non-Federal contributions under this subchapter exceeding its requirements under this section, such excess may be used to meet its requirements for such contributions under section 2748 of this title.

* * * * *

(As amended Pub. L. 92–424, §§ 12(a), 13, Sept. 19, 1972, 86 Stat. 692; Pub. L. 93–644, § 5(e), Jan. 4, 1975, 88 Stat. 2295.)

REFERENCES IN TEXT

Section 2748 of this title, referred to in subsec. (c), was repealed by section 614 of Pub. L. 93–203, and is now covered by section 984 of Title 29, Labor.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–644, § 5(e)(1), substituted "incomes below the poverty line" for "incomes of less than $1,000" and added provisions requiring the Director to utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census and to insure that for the fiscal year ending June 30, 1975, and for each succeeding fiscal year, no State shall be allotted for programs under sections 2808 and 2809(a) of this title an amount which is less than the amount received for use within such State for programs described in such sections during the fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93–644, § 5(e)(2), substituted "shall not exceed 80 per centum of the approved cost of the assisted programs or activities with respect to fiscal year 1975, and 70 per centum of such costs with respect to fiscal year 1976, and shall not exceed 60 per centum of such costs with respect to fiscal year 1977, except that in the case of community action agencies receiving such financial assistance annually of $300,000 or less, such financial assistance shall not exceed 75 per centum of such costs with respect to fiscal year 1976, and shall not exceed 70 per centum of such costs with respect to fiscal year 1977" for "shall not exceed 90 per centum of the approved cost of the assisted programs or activities and thereafter shall not exceed 80 per centum of such costs"

1972—Subsec. (a). Pub. L. 92–424, § 12(a), struck out limitation on allotment to Puerto Rico.

Subsec. (c). Pub. L. 92–424, § 13, inserted after the second sentence provision respecting non-Federal contribution ceiling.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 12(a) of Pub. L. 92–424 provided in part that amendment of subsec. (a) of this section by such section 12(a) shall be effective after June 30, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2836 of this title.

§ 2813. Design and planning assistance programs.

(a) The Director shall make grants or enter into contracts to provide financial assistance for the operating expenses of programs conducted by community-based design and planning organizations to provide technical assistance and professional architectural and related services relating to housing, neighborhood facilities, transportation and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance. Such programs shall be conducted with maximum use of the voluntary services of professional and community personnel. In providing assistance under this section, the Director shall afford priority to persons in urban or rural poverty areas with substandard housing, substandard public service facilities, and generally blighted conditions. Design and planning services to be provided by such organizations shall include—

(1) comprehensive community or area planning and development;

(2) specific projects for the priority planning and development needs of the community; and

(3) educational programs directed to local residents emphasizing their role in the planning and development process in the community.

(b) No assistance may be provided under this section unless such design and planning organization—

(1) is a nonprofit organization located in the neighborhood or area to be served with a majority of the governing body of such organization comprised of residents of that neighborhood or area;

(2) has a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum possible participation of local residents, especially low-income residents, in the planning and decisionmaking regarding the development of their community; and

(3) will carry out its design and planning services principally through the voluntary participation of professional and community personnel (including, where available, VISTA volunteers).

(c) Design and planning organizations receiving assistance under this section shall not subcontract with any profitmaking organization or pay fees for architectural or other professional services.

(d) The Director is authorized to make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness of the type described in this section receiving assistance under section 2825 of this title during the fiscal year ending June 30, 1971. (Pub. L. 88–452, title II, § 226, as added Pub. L. 92–424, § 14, Sept. 19, 1972, 86 Stat. 693, and amended Pub. L. 93–644, § 5(d)(2), Jan. 4, 1975, 88 Stat. 2295.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–644 substituted "is authorized to make whatever arrangements are necessary" for "shall make whatever arrangements are necessary".

§ 2814. Youth recreation and sports program.

(a) In order to provide to disadvantaged youth recreation and physical fitness instruction and competition with high-quality facilities and supervision and related educational and counseling services (including instruction concerning study practices, career opportunities, job responsibilities, health and nutrition, and drug abuse education) through regular association with college instructors and athletes and exposure to college and university campuses and other recreational facilities, the Director shall make grants or enter into contracts for the conduct of an annual youth recreation and sports program concentrated in the summer months and with continued activities throughout the year, so as to offer disadvantaged youth living in areas of rural and urban poverty an opportunity to receive such recreation and educational instruction, information, and services and to participate in such physical fitness programs and sports competitions.

(b) No assistance may be provided under this section unless satisfactory assurances are received that (1) not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Director, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation and (2) all significant segments of the low-income population of the community to be served will be served on an equitable basis in terms of participating youths and instructional and other support personnel.

(c) Programs under this section shall be administered by the Director through grants or contracts with any qualified organization of colleges and universities or such other qualified nonprofit organizations active in the field with access to appropriate recreational facilities as the Director shall determine in accordance with regulations which he shall prescribe. Each such grant or contract and subcontract with participating institutions of higher education or other qualified organizations active in the field shall contain provisions to assure that the program to be assisted will provide a non-Federal contribution (in cash or in kind) of no less than 20 per centum of the direct costs necessary to carry out the program. Each such grant, contract, or subcontract shall include provisions for—

(1) providing opportunities for disadvantaged youth to engage in competitive sports and receive sports skills and physical fitness instruction and education in good health and nutrition practices;

(2) providing such youth with instruction and information regarding study practices, career opportunities, job responsibilities, and drug abuse;

(3) carrying out continuing related activities throughout the year;

(4) meeting the requirements of subsection (b) of this section;

(5) enabling the contractor and institutions of higher education or other qualified organizations active in the field located conveniently to such areas of poverty and the students and personnel of such institutions or organizations active in the field to participate more fully in the community life and in solutions of community problems; and (6) serving metropolitan centers of the United States and rural areas, within the limits of program resources.

(Pub. L. 88–452, title II, § 227, as added Pub. L. 92–424, § 14, Sept. 19, 1972, 86 Stat. 693.)

§ 2815. Consumer action and cooperative programs.

(a) The Director shall make grants or enter into contracts to provide financial assistance for the development, technical assistance to and conduct of consumer action and advocacy and cooperative programs, credit resources development programs, and consumer protection and education programs designed to demonstrate various techniques and models and to carry out projects to assist and provide technical assistance to low-income persons to try to improve the quality, improve the delivery, and lower the price of goods and services, to obtain, without undue delay or burden, financial credit at reasonable cost, and to develop means of enforcing consumer rights, developing consumer grievance procedures and presenting consumer grievances, submitting consumer views and concerns for protection against unfair, deceptive, or discriminatory trade and commercial practices and educating low-income persons with respect to such rights, procedures, grievances, views and concerns.

(b) No assistance may be provided under this section unless the grantee or contracting organization or agency is a nonprofit organization and has as a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum possible participation of low-income persons in the project.

(c) The Director is authorized to make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness, or which have not yet been evaluated until such time as an evaluation is conducted and the effectiveness determined and to carry out evaluations of such projects, of the type described in this section receiving assistance under section 2825 of this title during the fiscal year ending June 30, 1971 or June 30, 1972. (Pub. L. 88–452, title II, § 228 as added Pub. L. 92–424, § 14, Sept. 19, 1972, 86 Stat. 694, and amended Pub. L. 93–644, § 5(d)(2), Jan. 4, 1975, 88 Stat. 2295.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–644 substituted "is authorized to make whatever arrangements are necessary" for "shall make whatever arrangements are necessary".

PART C.—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

§ 2824. State agency assistance; termination of assistance, hearing.

* * * * *

(d) If any member of a board to which section 2791(b) of this title is applicable files an allegation with the Director that an agency receiving assistance under this section is not observing any requirement of this chapter, or any regulation, rule, or guideline promulgated by the Director under this chapter, the Director shall promptly investigate such allegation and shall consider it; and, if after such investigation and consideration he finds reasonable cause to believe that the allegations are true, he shall hold a hearing, upon the conclusion of which he shall notify all interested persons of his findings. If he finds that the allegations are true, and that, after being afforded a reasonable opportunity to do so, the agency has failed to make appropriate corrections, he shall forthwith terminate further assistance under this subchapter to such agency until he has received assurances satisfactory to him that further violations will not occur. (As amended Pub. L. 92–424, § 15, Sept. 19, 1972, 86 Stat. 695.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–424 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2790, 2828, 2974 of this title.

§ 2825. Research and pilot programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2813, 2815, 2941 of this title.

§ 2826. Repealed. Pub. L. 92–424, § 27(b)(1), Sept. 19, 1972, 86 Stat. 705.

Section, Pub. L. 88–452, title II, § 233, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 704, related to evaluations, reports, and independent studies, and is now covered by subchapter IX of this chapter.

§ 2827. Special assistance.

The Director may provide financial assistance for projects conducted by public or private nonprofit agencies which are designed to serve groups of low-income individuals who are not being effectively served by other programs under this subchapter. In administering this section, the Director shall give special consideration to programs designed to assist older persons and other low-income individuals who do not reside in low-income areas and who are not being effectively served by other programs under this subchapter. (Pub. L. 88–452, title II, § 234, as added Pub. L. 92–424, § 16, Sept. 19, 1972, 86 Stat. 695.)

§ 2828. Demonstration community partnership agreements.

(a) The Director may provide financial assistance from funds appropriated to carry out this section to community action agencies or public or private nonprofit agencies designated under section 2790 of this title for programs authorized under this subchapter, and to State economic opportunity offices for programs and activities authorized under section 2824(a) of this title. Financial assistance extended to a community action agency or other agency pursuant to this section may be used for new programs or to supplement existing programs and shall not exceed 50 per centum of the cost of such new or supplemental programs.

(b) Matching local and State funds supplied under this section shall be in cash and shall represent State and local initiatives newly obligated within the previous year to the purposes of the grant-supported

activity; and no program shall be approved for assistance under this section unless the Director satisfies himself (1) that the activities to be carried out under such program will be in addition to, and not in substitution for, activities previously carried on without Federal assistance, (2) that funds or other resources devoted to programs designed to meet the needs of the poor within the community, area, or State will not be diminished in order to provide the contributions required under this section. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may adopt and promulgate establishing objective criteria for determinations covering situations where a strict application of that requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes sought to be achieved.

(c) The provisions of section 2834 of this title shall not apply to assistance provided under this section. (Pub. L. 88–452, title II, § 235, as added Pub. L. 93–644, § 5(f), Jan. 4, 1975, 88 Stat. 2296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2712, 2790, 2830 of this title.

§ 2829. Intergovernmental Advisory Council on Community Services.

(a) Establishment.

There shall be established within the Office of Economic Opportunity or successor authority an Intergovernmental Advisory Council on Community Services (referred to in this section as the "Council").

(b) Membership.

The Council shall be composed of nine members who shall be appointed by the President as follows:

(i) Three members shall be appointed from among representatives of States and county and municipal governments or organizations which represent such governmental units, selected on an equitable political and geographic basis after considering recommendations made by the National Governors' Conference, the National League of Cities-United States Conference of Mayors, the National Association of Counties and similar organizations representative of State and local government.

(ii) Three members shall be appointed from among representatives of community action agencies and other grantees under this chapter or organizations which represent such agencies and grantees, selected on an equitable political and geographic basis after considering recommendations previously made by the Director of the Office of Economic Opportunity.

(iii) Three members shall be appointed from among representatives of labor, management, and other sectors which have demonstrated active interest in community action and antipoverty programs.

(c) Functions and duties.

The Council shall—

(1) encourage the formation of community partnership agreements;

(2) review the substance of such agreements and any regulations, guidelines, or other program criteria with respect thereto and advise the Director thereon prior to final approval thereof;

(3) evaluate the effectiveness of such agreements in meeting the purposes of this chapter,

(4) conduct a continuing survey throughout the Nation on the extent to which, and terms under which, public and private resources have been and may be available for antipoverty efforts;

(5) identify and encourage means of increasing resources available for such activities; and

(6) submit annual reports to the President and to the Congress on or before March 1, 1976, and March 1, 1977, with respect to its activities and findings, together with such recommendations for legislation as it may deem appropriate.

(d) Information; copies of grant applications.

The Director shall provide the Council with such information as shall be necessary for the Council to discharge its functions under this section and shall furnish the Council with copies of all grant applications within ten days of receipt thereof. (Pub. L. 88–452, title II, § 236, as added Pub. L. 93–644, § 5(f), Jan. 4, 1975, 88 Stat. 2297.)

§ 2830. Authorization of appropriations.

There is also authorized to be appropriated not to exceed $50,000,000 to carry out section 2828 of this title during the fiscal year 1975, and such sums as may be necessary during each of the two succeeding fiscal years, except that in no event may more than 12½ per centum of such additional amounts be used in any one State. (Pub. L. 88–452, title II, § 237, as added Pub. L. 93–644, § 5(f), Jan. 4, 1975, 88 Stat. 2297).

PART D.—GENERAL AND TECHNICAL PROVISIONS

§ 2834. Submission of plans to governors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2828 of this title.

§ 2836. Special limitations.

The following special limitations shall apply, as indicated, to programs under this subchapter.

* * * * *

(8) Consistent with the provisions of this chapter, the Director shall assure that financial assistance under this subchapter will be distributed on an equitable basis in any community and within any State so that all significant segments of the low-income population are being served.

(As amended Pub. L. 92–424, § 17, Sept. 19, 1972, 86 Stat. 695.)

AMENDMENTS

1972—Par. (8). Pub. L. 92–424 added par. (8).

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the

Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 2837. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (As amended Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93–644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92–424 substituted "eight" for "five" succeeding fiscal years.

SUBCHAPTER III.—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702b, 2706, 2707, 2942 of this title; title 15 section 636; title 29 section 774.

PART A.—RURAL LOAN PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2984 of this title.

§ 2855. Revolving fund.

* * * * *

(d) Receipts from lending and guaranty operations; availability of funds.

Receipts from any lending and guaranty operations under this chapter shall be credited to the fund. The fund shall be available for the payment of all expenditures of the Director for loans, participations, and guaranties authorized under this part. (As amended Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–386 struck out reference to operations under subchapter IV of this chapter carried on by the Small Business Administration.

PART B.—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2706, 2941 of this title; title 20 sections 241c–2, 244.

§ 2861. Congressional statement of purpose.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 774.

§ 2862. Financial assistance.

* * * * *

(b) Programs assisted under this part may include projects or activities—

* * * * *

(3) to equip unskilled migrant and seasonal farmworkers and members of their families as appropriate through education and developmental programs to meet the changing demands in agricultural employment brought about by technological advancement and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available Government employment or training programs.

(As amended Pub. L. 92–424, § 18, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93–644, § 6(a), Jan. 4, 1975, 88 Stat. 2298.)

AMENDMENTS

1975—Subsec. (b)(3). Pub. L. 93–644 substituted "education and developmental programs" for "education and training".

1972—Subsec. (b)(3). Pub. L. 92–424 provided for Government employment programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2944 of this title.

§ 2864. Technical assistance and training.

The Director may provide directly or through grants, contracts, or other arrangements, such technical assistance or training of personnel as may be required to implement effectively the purposes of this subchapter. (As amended Pub. L. 92–424. § 27(b)(1),(3), Sept. 19, 1972, 86 Stat. 705.)

AMENDMENTS

1972—Pub. L. 92–424 struck out subsec. (b) requiring the Director to provide evaluation of subchapter projects, permitting him to secure independent evaluations, and providing for publication of the evaluations and for summarized inclusion in the report required by section 2948 of this title, now covered by subchapter IX of this chapter, and struck out subsec. (a) designation, respectively.

§ 2865. Coordination, monitoring, and review of programs.

The Director shall be responsible for coordinating programs under this part with other Federal programs designed to assist or serve migrant and seasonal farmworkers, and for reviewing and monitoring such programs. (Pub. L. 88–452, title III, § 315, as added Pub. L. 93–644, § 6(b), Jan. 4, 1975, 88 Stat. 2298.)

SPECIAL CONSIDERATION FOR AGENCIES PREVIOUSLY RECEIVING FINANCIAL ASSISTANCE TO PROVIDE SERVICES TO MIGRANT OR OTHER SEASONALLY EMPLOYED FARMWORKERS

Section 6(c) of Pub. L. 93–644 provided that: "In providing financial assistance under the provisions of part B of title III of the Economic Opportunity Act of 1964 [this part], the Director shall give special consideration to any public or private nonprofit agency which has previously received financial assistance thereunder for the provision of services for migrant and other seasonally employed farmworkers and their families, taking into account financial assistance provided to any such agency under section 303 of the Comprehensive Employment and Training Act of 1973 [section 873 of Title 29, Labor]."

PART C.—DURATION OF PROGRAM

§ 2871. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (As amended Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93–644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92–424 substituted "eight" for "five" succeeding fiscal years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2855 of this title.

SUBCHAPTER IV.—COMPREHENSIVE HEALTH SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707 of this title.

§ 2901. Establishment of programs; stipends and allowances; coordination.

(a) The Secretary shall establish within the Department of Health, Education, and Welfare a "Comprehensive Health Services" program which shall include—

(1) programs to aid in developing and carrying out comprehensive health services projects focused upon the needs of urban and rural areas having high concentrations or proportions of poverty and marked inadequacy of health services for the poor. These projects shall be designed—

(A) to make possible, with maximum feasible use of existing agencies and resources, the provision of comprehensive health services, such as preventive medical, diagnostic, treatment, rehabilitation, family planning, narcotic addiction and alcoholism prevention and rehabilitation, mental health, dental, and followup services, together with necessary related facilities and services, except in rural areas where the lack of even elemental health services and personnel may require simpler, less comprehensive services to be established first; and

(B) to assure that these services are made readily accessible to low-income residents of such areas, are furnished in a manner most responsive to their needs and with their participation and wherever possible are combined with, or included within, arrangements for providing employment, education, social, or other assistance needed by the families and individuals served except that pursuant to such regulations as the Secretary of Health, Education, and Welfare may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance; and

(2) programs to provide financial assistance to public or private agencies to projects designed to develop knowledge or enhance skills in the field of health services for the poor. Such projects shall encourage both prospective and practicing health professionals to direct their talents and energies toward providing health services for the poor.

Funds for financial assistance under paragraph (1) of this subsection shall be allotted according to need, and capacity of applicants to make rapid and effective use of that assistance, and may be used as necessary, to pay the full costs of projects. Before approving any project, the Secretary shall solicit and consider the comments and recommendations of the local medical associations in the area and shall consult with appropriate Federal, State, and local health agencies and take such steps as may be required to assure that the program will be carried on under competent professional supervision and that existing agencies providing related services are furnished all assistance needed to permit them to plan for participation in the program and for the necessary continuation of those related services. In carrying out the provisions of paragraph 2 of this subsection, the Secretary is authorized to provide or arrange for training and study in the field of health services for the poor.

(c)[1] Pursuant to regulations prescribed by him, the Secretary may arrange for the payment of stipends and allowances (including travel and subsistence expenses) for persons undergoing such training and study and for their dependents.

(d) The Secretary shall achieve effective coordination of programs and projects authorized under this section with other related activities. (Pub. L. 88–452, title IV, § 401, as added Pub. L. 93–644, § 7, Jan. 4, 1975, 88 Stat. 2298.)

PRIOR PROVISIONS

A prior section 2901, Pub. L. 88–452, title IV, § 401, Aug. 20, 1964, 78 Stat. 526; Pub. L. 90–222, title I, § 106(a), Dec. 23, 1967, 81 Stat. 710, setting forth the Congressional statement of purpose of this subchapter as the establishment, preservation, and strengthening of small business concerns and the improvement of managerial skills employed in such enterprises, was repealed by Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745. See section 636 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2902 of this title.

§ 2902. Alcoholic Counseling and Recovery Program; Drug Rehabilitation Program.

In addition to the authority conferred under section 2901 of this title the Secretary is authorized, as part of the Comprehensive Health Services program, to carry out the following programs:

(1) An "Alcoholic Counseling and Recovery" program designed to discover and treat the disease of alcoholism. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual alcoholic, encourage the use of neighborhood facilities and the services of recovered alcoholics as counselors, and emphasize the reentry of the alcoholic into society rather than the institutionalization of the alcoholic.

[1] So in original. Section was enacted without a subsec. (b).

(2) A "Drug Rehabilitation" program designed to discover the causes of drug abuse and addiction, to treat narcotic and drug addiction and the dependence associated with drug abuse, and to rehabilitate the drug abuser and drug addict. Such program should deal with the abuse or addiction resulting from the use of narcotic drugs such as heroin, opium, and cocaine, stimulants such as amphetamines, depressants, marihuana, hallucinogens, and tranquilizers. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual drug abuser or addict, encourage the use of neighborhood facilities and the services of recovered drug abusers and addicts as counselors, and emphasize the reentry of the drug abuser and addict into society rather than his institutionalization. The Director is authorized to undertake special programs aimed at promoting employment opportunities for rehabilitated addicts or addicts enrolled and participating in methadone maintenance treatment or therapeutic programs, and assisting employers in dealing with addiction and drug abuse and dependency problems among formerly hardcore unemployed so that they can be maintained in employment. In undertaking such programs, the Director shall give special priority to veterans and employers of significant numbers of veterans, with priority to those areas within the States having the highest percentages of addicts The Director is further authorized to establish procedures and policies which will allow clients to complete a full course of rehabilitation even though they become non-low-income by virtue of becoming employed as a part of the rehabilitation process but there shall be no change in income eligibility criteria for initial admission to treatment and rehabilitation programs under this chapter. (Pub. L. 88–452, title IV, § 402, as added Pub. L. 93–644, § 7, Jan. 4, 1975, 88 Stat. 2299.)

PRIOR PROVISIONS

A prior section 2902, Pub. L. 88–452, title IV, § 402, Aug. 20, 1964, 78 Stat. 526; Pub. L. 89–794, title IV, §§ 401, 402, 405, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–104, title I, § 108, Oct. 11, 1967, 81 Stat. 269; Pub. L. 90–222, title I, § 106(b), (c), Dec. 23, 1967, 81 Stat. 710; Pub. L. 92–320, § 2, June 27, 1972, 86 Stat. 382, relating to the powers of the Administrator of the Small Business Administration with respect to loans, and guarantees to small businesses, was repealed by Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745.

§§ 2905 to 2907. Repealed. Pub. L. 93–386, 2(b), Aug. 23, 1974, 88 Stat. 745.

Section 2905, Pub. L. 88–452, title IV, § 403, formerly 405, Aug. 20, 1964, 78 Stat. 526, renumbered and amended Pub. L. 89–794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465, set forth terms and conditions of any loans made pursuant to former section 2902 of this title.

Section 2906, Pub. L. 88–452, title IV, § 404, formerly 406, Aug. 20, 1964, 78 Stat. 527, renumbered and amended Pub. L. 89–794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–222, title I, § 106(d)(2), (3), Dec. 23, 1967, 81 Stat. 711, required the Administrator to distribute financial assistance to insure that at least 50 per centum of amounts loaned or guaranteed are alloted to small business concerns located in designated urban areas.

Section 2906a, Pub. L. 88–452, title IV, § 405, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711, prohibited financial assistance for relocation which would increase unemployment in the area of original location.

Section 2906b, Pub. L. 88–452, title IV, §406, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711, authorized the Administrator to provide financial assistance for the payment of the costs of projects supplying technical and management assistance to eligible individuals and enterprises.

Section 2906c, Pub. L. 88–452, title IV, § 407, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 712, authorized the Administrator to insure that government contracts, subcontracts, and deposits are placed in such a way as to aid small business concerns.

Section 2907, Pub. L. 88–452, title IV, § 408, formerly 407, Aug. 20, 1964, 78 Stat. 527, renumbered 405 and amended Pub. L. 89–794, title IV, §§ 404, 406, Nov. 8, 1966, 80 Stat. 1465; renumbered 408 and amended Pub. L. 90–222, title I, § 106(d)(1), Dec. 23, 1967, 81 Stat. 711; Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688, set forth the duration of the program as the eight succeeding fiscal years after the start of the program in the fiscal year ending June 30, 1967.

SUBCHAPTER V.—HEADSTART AND FOLLOW THROUGH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707 of this title.

§ 2921. Short title.

This subchapter may be cited as the "Headstart-Follow Through Act". (As amended Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions authorizing citation of this subchapter as the Headstart-Follow Through Act for provisions setting out the Congressional statement of purpose in creating the work experience and training programs.

§ 2922. Congressional statement of purpose.

In recognition of the role which Project Headstart has played in the effective delivery of comprehensive health, educational, nutritional, social, and other services to economically disadvantaged children and their families, the subchapter extends the authority for appropriation of funds for that program. (As amended Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

AMENDMENTS

1975—Pub. L. 93–644 substituted the Congressional statement of purpose in authorizing the Headstart program for provisions authorizing the transfer of funds to the Secretary of Health, Education, and Welfare to carry out work experience and training programs.

§ 2923. Congressional statement of policy with respect to migrant and Indian children.

In carrying out the purposes of part A of this subchapter the Secretary shall continue the administrative arrangement responsible for meeting the needs of migrant and Indian children and shall assure that appropriate funding is provided to meet such needs. (As amended Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions setting out the Congressional policy of meeting the needs of Indian and migrant children for provisions setting limitations on work experience and training programs.

§§ 2924, 2925. Omitted.

CODIFICATION

Sections 2924 and 2925 were omitted in the general reorganization and amendment of this subchapter by Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.

Section 2924, Pub. L. 88–452, title V, § 504, as added Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714, setting the fiscal year ending June 30, 1967, and the three succeeding fiscal years as the duration of the work experience, training, and day care programs, was omitted in the general reorganization and amendment of this subchapter by Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.

Section 2925, Pub. L. 88–452, title V, § 505, as added Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714, providing for the transition of training programs for needy persons requiring special family and supportive services, was omitted in general reorganization and amendment of this subchapter by Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.

PART A.—HEADSTART PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2923 of this title.

§ 2928. Financial assistance.

The Secretary may, upon application by an agency which is eligible for designation as a Headstart agency pursuant to section 2928c of this title, provide financial assistance to such agency for the planning, conduct, administration, and evaluation of a Headstart program focused primarily upon children from low-income families who have not reached the age of compulsory school attendance which (1) will provide such comprehensive health, nutritional, educational, social, and other services as will aid the children to attain their full potential, and (2) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level. (Pub. L. 88–452, title V, § 511, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

§ 2928a. Authorization of appropriations.

There are authorized to be appropriated for carrying out the purposes of this part such sums as may be necessary for fiscal years 1975 through 1977. (Pub. L. 88–452, title V, § 512, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928b of this title.

§ 2928b. Distribution of funds.

(a) Allotments.

Of the sums appropriated pursuant to section 2928a of this title for any fiscal year beginning after June 30, 1975, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. In addition, the Secretary shall reserve not more than 20 per centum of the sums so appropriated for use in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest satisfactory available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, and (2) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States; but there shall be made available, for use by Headstart programs within each State, no less funds for any fiscal year than were obligated for use by Headstart programs within such State with respect to fiscal year 1975. Allocation of such increases within each State shall, to the extent feasible, be made in such manner as to reflect the proportionate increases in program costs incurred by grantees, in accordance with regulations which the Secretary shall prescribe for this purpose. For the purpose of this subsection, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(b) Limitations on assistance.

Financial assistance extended under this part for a Headstart program shall not exceed 80 per centum of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this part.

(c) Comparable service previously provided without Federal assistance.

No programs shall be approved for assistance under this part unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

(d) Handicapped children.

The Secretary shall establish policies and procedures designed to assure that for fiscal year 1975 not less than 10 per centum of the total number of enrollment opportunities in Headstart programs in the Nation shall be available for handicapped children and that for fiscal year 1976 and thereafter no less than 10 per centum of the total number of enrollment opportunities in Headstart programs in each State shall be available for handicapped children (as defined in paragraph (1) of section 1401 of Title 20) and that services shall be provided to meet their special needs. The Secretary shall report to the Congress at least annually on the status of handicapped children in Headstart programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

(e) Equitable distribution of benefits between rural and urban areas.

The Secretary shall adopt appropriate administrative measures to assure that the benefits of this part will be distributed equitably between residents of rural and urban areas. (Pub. L. 88–452, title V, § 513, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2930 of this title.

§ 2928c. Designation of Headstart agencies.

(a) The Secretary is authorized to designate as a Headstart agency any local public or private nonprofit agency which (1) has the power and authority to carry out the purposes of this part and perform the functions set forth in section 2928d of this title within a community, and (2) is determined by the Secretary to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Headstart program.

(b) For the purposes of this subchapter, a community may be a city, county, multicity, or multicounty unit within a State, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organization base and possesses the commonality of interest needed to operate a Headstart program.

(c) In the administration of the provisions of this section, the Secretary shall give priority in the designation of Headstart agencies to any local public or private nonprofit agency which is receiving funds under any Headstart program on January 4, 1975, except that the Secretary shall, before giving such priority, determine that the agency involved meets program and fiscal requirements established by the Secretary. (Pub. L. 88–452, title V, § 514, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928 of this title.

§ 2928d. Powers and functions of Headstart agencies.

(a) In order to be designated as a Headstart agency under this part, an agency must have authority under its charter or applicable law to receive and administer funds under this part, funds and contributions from private or local public sources which may be used in support of a Headstart program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit agency (as the case may be) organized in accordance with this part, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Headstart program. Such an agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. This power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In order to be so designated, a Headstart agency must also (1) establish effective procedures by which parents and area residents concerned will be enabled to influence the character of programs affecting their interests, (2) provide for their regular participation in the implementation of such programs, and (3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources. (Pub. L. 88–452, title V, § 515, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928c of this title.

§ 2928e. Submission of plans to Governors.

In carrying out the provisions of this part, no contract, agreement, grant, or other assistance shall be made for the purpose of carrying out a Headstart program within a State unless a plan setting forth such proposed contract, agreement, grant, or other assistance has been submitted to the Governor of the State, and such plan has not been disapproved by the Governor within thirty days of such submission, or, if so disapproved, has been reconsidered by the Secretary and found by him to be fully consistent with the provisions and in furtherance of the purposes of this part. Funds to cover the costs of the proposed contract, agreement, grant, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to the Governor. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any institution of higher education in existence on January 4, 1975. (Pub. L. 88–452, title V, § 516, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2302.)

§ 2928f. Administrative requirements and standards.

(a) Standards for organization, management, and administration.

Each Headstart agency shall observe standards of organization, management, and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this part and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including but not limited to public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits; to assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; to guard against personal or financial conflicts of interests; and to define employee duties in an appropriate manner which will in any case preclude employees from participating, in connection with the

performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) Development and administration costs.

No financial assistance shall be extended under this subchapter in any case in which the Secretary determines that the costs of developing and administering a program assisted under this subchapter exceed 15 per centum of the total costs, including non-Federal contributions to such costs, of such program. The Secretary shall establish by regulation, criteria for determining (i) the costs of developing and administering such program and (ii) the total costs of such program. In any case in which the Secretary determines that the cost of administering such program does not exceed 15 per centum and such total costs but is, in his judgment, excessive, he shall forthwith require the recipient of such financial assistance to take such steps prescribed by him as will eliminate such excessive administrative cost, including the sharing by one or more Headstart agencies of a common director and other administrative personnel. The Secretary may waive the limitation prescribed by this paragraph for specific periods of time not to exceed six months whenever he determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(c) Rules and regulations.

The Secretary shall prescribe rules or regulations to supplement subsection (a) of this section, which shall be binding on all agencies carrying on Headstart program activities with financial assistance under this part. He may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be established to insure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this part and other programs shall be fairly allocated among the various programs which utilize such facilities and services.

(d) Publication in Federal Register.

At least thirty days prior to their effective date, all rules, regulations, guidelines, instructions, and application forms shall be published in the Federal Register and shall be sent to each grantee with the notification that each such grantee has the right to submit comments pertaining thereto to the Secretary prior to the final adoption thereof. (Pub. L. 88–452, title V, § 517, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2303.)

§ 2928g. Participation in Headstart programs.

(a) The Secretary shall by regulation prescribe eligibility for the participation of persons in Headstart programs assisted under this part. Such criteria may provide (1) that children from low-income families shall be eligible for participation in programs assisted under this part if their families are below the poverty line, or if their families are eligible or in the absence of child care would potentially be eligible for public assistance; and (2) pursuant to such regulations as the Secretary shall prescribe that programs assisted under this part may include, to a reasonable extent, participation of children in the area served who would benefit from such programs but whose families do not meet the low-income criteria prescribed pursuant to clause (1).

(b) The Secretary shall not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in Headstart programs, unless such fees are authorized by legislation hereafter enacted. Nothing in this subsection shall be construed to prevent the families of children who participate in Headstart programs and who are willing and able to pay the full cost of such participation from doing so. (Pub. L. 88–452, title V, § 518, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2304.)

§ 2928h. Appeals, notice, and hearing.

The Secretary shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this part and whose application to the Headstart agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which he shall prescribe;

(2) financial assistance under this part shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(3) financial assistance under this part shall not be terminated, an application for refunding shall not denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88–452, title V, § 519, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2304.)

§ 2928i. Records and audit.

(a) Each recipient of financial assistance under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part. (Pub. L. 88–452, title V, § 520, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928j. Technical assistance and training.

The Secretary may provide directly or through grants or other arrangements, (1) technical assistance to communities in developing, conducting, and administering programs under this part, and (2) training for specialized or other personnel needed in connection with Headstart programs. (Pub. L. 88–452, title V, § 521, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928k. Research, demonstration, and pilot projects.

(a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this part.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, or pilot projects and the use of all research authority under this part. Such plan shall set forth specific objectives to be achieved and priorities among such objectives. (Pub. L. 88–452, title V, § 522, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928*l*. Announcement of research, demonstration, and pilot projects contracts.

(a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) of this section shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(c) The Director shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) The Director shall publish studies of the results of activities carried out pursuant to this subchapter not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such studies. (Pub. L. 88–452, title V, § 523, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928m. Evaluation.

(a) The Secretary shall provide directly or through grants or contracts, for the continuing evaluation of programs under this part, including evaluations that measure and evaluate the impact of programs authorized by this part, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shal be conducted by persons not directly involved in the administration of the program or project evaluation.

(b) Prior to obligating funds for the programs and projects covered by this part with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this part. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this part.

(c) In carrying out evaluations under this part, the Secretary may require Headstart agencies to provide for independent evaluations.

(d) In carrying out evaluations under this part, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this part about such programs and projects.

(e) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this part shall become the property of the United States. (Pub. L. 88–452, title V, § 524, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2306.)

§ 2928n. Poverty line.

(a) The Secretary shall revise annually (or at any shorter interval he deems feasible and desirable) a poverty line which, except as provided in section 2982 of this title, shall be used as a criterion of eligibility for participation in Headstart programs.

(b) The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Revisions required by subsection (a) of this section shall be made and issued not more than thirty days after the date on which the necessary Consumer Price Index data becomes available. (Pub. L. 88–452, title V, § 525, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2306.)

PART B.—FOLLOW THROUGH PROGRAMS

§ 2929. Financial assistance.

(a)[1] (1) The Secretary is authorized to provide financial assistance in the form of grants to local educational agencies, combinations of such agencies, and, as provided in paragraph (2) of this subsection, any other public or appropriate nonprofit private

[1] So in original. Section enacted without a subsec. (b).

agencies, organizations, and institutions for the purpose of carrying out Follow Through programs focused primarily on children from low-income families in kindergarten and primary grades, including such children enrolled in private nonprofit elementary schools, who were previously enrolled in Headstart or similar programs.

(2) Whenever the Secretary determines (A) that a local educational agency receiving assistance under paragraph (1) is unable or unwilling to include in a Follow Through program children enrolled in nonprofit private schools who would otherwise be eligible to participate therein, or (B) that it is otherwise necessary in order to accomplish the purposes of this section, he may provide financial assistance for the purpose of carrying out a Follow Through program to any other public or appropriate nonprofit private agency, organization, or institution.

(3) Programs to be assisted under this section shall provide such comprehensive services as the Secretary determines will aid in the continued development of children described in paragraph (1) to their full potential. Such projects shall provide for the direct participation of the parents of such children in the development, conduct, and overall direction of the program at the local level. If the Secretary determines that participation in the project of children who are not from low-income families will serve to carry out the purposes of this section, he may provide for the inclusion of such children from non-low-income families, but only to the extent that their participation will not dilute the effectiveness of the services designed for children described in paragraph (1) of this subsection. (Pub. L. 88–452, title V, § 551, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2306.)

§ 2929a. Authorization of appropriations.

(a) There are authorized to be appropriated for carrying out the purposes of this part $60,000,000 for the fiscal year 1975, and for each of the two suceeding fiscal years. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

(b) Financial assistance extended under this part for a Follow Through program shall not exceed 80 per centum of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this part.

(c) No project shall be approved for assistance under this part unless the Secretary is satisfied that the services to be provided under such project will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may adopt. (Pub. L. 88–452, title V, § 552, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2307.)

§ 2929b. Research, demonstration, and pilot projects; evaluation; technical assistance activities.

(a)[1] In conjunction with other activities authorized by this part, the Secretary may—

(1) provide financial assistance, by contract or otherwise, for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this part;

(2) provide, directly or through grants or contracts, for the continuing evaluation of projects assisted under this part, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects, which evaluations shall be conducted by persons not directly involved in the administration of the project evaluated; and

(3) provide, directly or through grants or other appropriate arrangements, (A) technical assistance to Follow Through programs in developing, conducting, and administering programs under this part, and (B) training for specialized or other personnel which is needed in connection with Follow Through programs.

(Pub. L. 88–452, title V, § 553, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2307.)

§ 2929c. Special conditions.

(a) Recipients of financial assistance under this part shall provide maximum employment opportunities for residents of the area to be served, and to parents of children who are participating in projects assisted under this part.

(b) Financial assistance under this part shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding be denied, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(c) Financial assistance under this part shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing. (Pub. L. 88–452, title V, § 554, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

PART C.—GENERAL PROVISIONS

§ 2930. Definitions.

As used in this subchapter, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

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[1] So in original. Section enacted without a subsec. (b).

(2) "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands; except that when used in section 2928b(a) of this title, the term means only a State, Puerto Rico, or the District of Columbia; and

(3) "financial assistance" includes assistance provided by grant, agreement, or contract, and payments may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 88–452, title V, § 571, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

§ 2930a. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this subchapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (Pub. L. 88–462, title V, § 572, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2930b. Comparability of wages.

(a)[1] The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher, or (2) less than the minimum wage rate prescribed in section 206(a)(1) of Title 29. (Pub. L. 88–452, title V, § 573, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

§ 2930c. Nondiscrimination.

(a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d–1 of this title. Section 2000d–2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter. (Pub. L. 88–452, title V, § 574, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

§ 2930d. Unlawful demonstrations, rioting, or civil disturbances.

No individual employed or assigned by any Headstart agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this part by such Headstart agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance. (Pub. L. 88–452, title V, § 575, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

§ 2930e. Political activities.

(a) For purposes of chapter 15 of Title 5 any agency which assumes responsibility for planning, developing, and coordinating Headstart programs and receives assistance under this subchapter shall be deemed to be a State or local agency; and for purposes of clauses (1) and (2) of section 1502(a) of Title 5 any agency receiving assistance under this part shall be deemed to be a State or local agency.

(b) Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Secretary, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis. (Pub. L. 88–452, title V, § 576, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

[1] So in original. Section enacted without a subsec. (b).

§ 2930f. Advance funding.

For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this part are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. (Pub. L. 88–452, title V, § 577, as added Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2310.)

PART D.—DAY CARE PROJECTS

CODIFICATION

This part, formerly designated as Part B, was redesignated Part D by Pub. L. 93–644, § 8(a), Jan. 4, 1975, 88 Stat. 2300, as part of the general revision and amendment of this subchapter by Pub. L. 93–644.

§ 2931. Congressional statement of purpose.

The purpose of this part is to provide day care for children from families which need such assistance to become or remain self-sufficient or otherwise to obtain objectives related to the purposes of this chapter, with particular emphasis upon enabling the parents or relatives of such children to choose to undertake or to continue basic education, vocational training, or gainful employment. (Pub. L. 88–452, title V, § 581, formerly § 521, as added Pub. L. 90–222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713, and renumbered Pub. L. 93–644, § 8(c), Jan. 4, 1975, 88 Stat. 2310.)

§ 2932. Financial assistance for day care projects.

(a) Eligible agencies and organizations; contributions.

The Secretary is authorized to provide financial assistance to appropriate public agencies and private organizations to pay not to exceed 90 per centum of the cost of planning, conducting, administering, and evaluating projects under which children from low-income families or from urban and rural areas with large concentrations or proportions of low-income persons may receive day care. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment and services. Such day care projects shall provide health, education, social, and such other supportive services as may be needed. Financial assistance under this section may be provided to employers, labor unions, or to joint employer-union organizations, for day care projects established at or in association with a place of employment or training where such projects are financed in major part through private funds. Project costs payable under this part may include costs of renovation and alteration of physical facilities. Financial assistance under this section may be provided in conjunction with or to supplement day care projects under the Social Security Act or other relevant statutes.

(b) Payment for day care services.

The Secretary may require a family which is not a low-income family to make payment, in whole or in part, for the day care services provided under this program where the family's financial condition is, or becomes through employment or otherwise, such as to make such payment appropriate.

(c) Technical assistance and training.

The Secretary may provide, directly or through contracts or other arrangements, technical assistance and training necessary for the initiation or effective operation of programs under this part.

(d) Program coordination.

The Secretary shall take all necessary steps to coordinate programs under his jurisdiction which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels. Such standards shall be no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. In approving applications for assistance under this part, the Secretary shall take into consideration (1) the extent to which applicants show evidence of coordination and cooperation between their projects and other day care programs in the areas which they will serve and (2) the extent to which unemployed or low-income individuals are to be employed, including individuals receiving or eligible to receive assistance under the Social Security Act.

(e) Evaluation of program; report.

Each project to which payments are made hereunder shall provide for a thorough evaluation. This evaluation shall be conducted by such agency or independent public or private organization as the Secretary shall designate, with a view to determining, among other things, the extent to which the day care provided may have increased the employment of parents and relatives of the children served, the extent to which such day care may have reduced the costs of aid and services to such children, the extent to which such children have received health and educational benefits, and the extent to which the project has been coordinated with other day care activities in the area served. Up to 100 per centum of the costs of evaluation may be paid by the Secretary from funds appropriated for the purposes of carrying out this part, except that where such evaluation is carried on by the assisted agency itself, he may pay only 90 per centum of such costs. Such evaluations, together with a report on the program described in this part, shall be included in the report required by section 2948 of the title. (Pub. L. 88–452, title V, § 582, formerly § 522, as added Pub. L. 90–222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713, and amended Pub. L. 92–424, § 19, Sept. 19, 1972, 86 Stat. 696; renumbered and amended Pub. L. 93–644, § 8(b), (c), Jan. 4, 1975, 88 Stat. 2310.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–644, § 8(b), substituted "Secretary" for "Director".

Subsec. (b). Pub. L. 93–644, § 8(b), substituted "Secretary" for "Director".

Subsec. (c). Pub. L. 93–644, § 8(b), substituted "Secretary" for "Director".

Subsec. (d). Pub. L. 93–644, § 8(b), substituted "Secretary" for "Director and the Secretary of Health, Education, and Welfare" and "Director", respectively, and "his jurisdiction" for "their jurisdictions".

Subsec. (e). Pub. L. 93–644, § 8(b), substituted "Secretary" for "Director".

1972—Subsec. (d). Pub. L. 92-424 provided that day care standards be no less comprehensive than the Federal interagency day care requirements as were approved by Federal authorities on Sept. 23, 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

§ 2933. Duration of program.

The Secretary shall carry out the programs provided for in this part during the fiscal year ending June 30, 1968, and the ten succeeding fiscal years. (Pub. L. 88-452, title V, § 583, formerly § 523, as added Pub. L. 90-222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 714, and amended Pub. L. 91-177, title I, § 101(c), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(b), Sept. 19, 1972, 86 Stat. 688; renumbered and amended Pub. L. 93-644, §§ 8(b), (c), 14(b), Jan. 4, 1975, 88 Stat. 2310, 2329.)

AMENDMENTS

1975—Pub. L. 93-644, §§ 8(b), 14(b), substituted "Secretary" for "Director" and "ten succeeding fiscal years" for "seven succeeding fiscal years".

1972—Pub. L. 92-424 substituted "seven" for "four" succeeding fiscal years.

SUBCHAPTER VI.—ADMINISTRATION AND COORDINATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702b, 2706, 2707, 2809; 2941 of this title.

PART A.—ADMINISTRATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2951 of this title.

§ 2941. Community Services Administration.

(a) Establishment as independent agency within Executive Branch; Director.

Upon January 4, 1975, there is established within the executive branch an agency known as the "Community Services Administration" which shall be headed by a Director and which shall be, in all respects and for all purposes, the successor authority to the Office of Economic Opportunity. The Director of the Administration shall be appointed by the President by and with the advice and consent of the Senate. The Director shall be compensated at a rate equal to the rate in effect for the compensation of the Director of the Office of Economic Opportunity on January 4, 1975.

(b) Deputy Director; Assistant Directors.

There shall also be in the Administration one Deputy Director and Assistant Directors who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director and the Assistant Directors shall perform such functions as the Director may prescribe. The Deputy Director and the Assistant Directors shall be compensated at a rate equal to the rate in effect for the Deputy Director and the Assistant Directors, respectively, of the Office of Economic Opportunity on January 4, 1975.

(c) Responsibilities of Director; non-delegability of functions.

Subject to the provisions of subsection (e) of this section, the Administration shall be an independent agency. The Director shall have the responsibility for carrying out subchapters I, II, III-B, VI, VII, and IX of this chapter. The functions of the Director with respect to carrying out subchapters I, II (except section 2825 of this title), III-B, VI, VII, and IX of this chapter shall not be delegated to any other officer not directly responsible, both with respect to program operation and administration to the Director. Beginning after June 15, 1975, the policymaking functions, including the final approval of grants and contracts, of the Director, shall not be delegated to any regional office or official.

(d) Community Services Administration as successor to Office of Economic Opportunity; continuing force and effectiveness of official actions; suits, actions, proceedings, or causes of action not abated; personnel.

(1) All official actions taken by the Director of the Office of Economic Opportunity, his designee, or any other person under the authority of this chapter which are in force on January 4, 1975, and for which there is continuing authority under the provisions of this chapter, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(2) All references to the Office of Economic Opportunity, or to the Director of the Office of Economic Opportunity, in any statute, reorganization plan, executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Administration, or to the Director, as the case may be.

(3) No suit, action, or other proceeding, and no cause of action, by or against the Office of Economic Opportunity, or any action by any officer thereof acting in his official capacity, shall abate by reason of the enactment of the Headstart, Economic Opportunity, and Community Partnership Act of 1974.

(4) Persons appointed by the President, by and with the advice and consent of the Senate, to positions in the Office of Economic Opportunity, requiring appointment by and with such advice and consent, may, if the President so desires, continue to serve in comparable positions in the Administration; but the President may submit to the Senate nominations for appointment to any or all positions in the Administration, requiring the advice and consent of the Senate.

(e) Reorganization; Community Services Administration in Department of Health, Education, and Welfare; Community Economic Development Administration in Department of Commerce.

(1) After March 15, 1975, the President may submit to the Congress a reorganization plan which, subject to the provisions of paragraph (2) of this subsection, shall take effect if such reorganization plan is not disapproved by enactment of a joint resolution which shall be considered in Congress in accordance with the provisions of paragraph (3) of this subsection and the procedures established with respect to reorganization plans by chapter 9 of Title 5 except to the extent otherwise provided in this chapter.

(2) A reorganization plan submitted in accordance with the provisions of paragraph (1) shall provide—

(A) for establishing in the Department of Health, Education, and Welfare a Community Services Administration—

(i) which shall be headed by a Director,

(ii) which shall be the principal agency, and the Director of which shall be the principal officer, for carrying out subchapters I, II, III–B, VI, and IX of this chapter, and which, with respect to such provisions, shall be the successor authority to the Community Services Administration established by subsection (a) of this section,

(iii) the Director of which shall be, in the performance of his functions, directly responsible to the Secretary, and

(iv) in which no policymaking functions, including the final approval of grants or contracts, of the Director shall be delegated to any regional office or official.

(B) for establishing in the Department of Commerce a Community Economic Development Administration—

(i) which shall be headed by a Director,

(ii) which shall be the principal agency, and the Director of which shall be the principal officer, for carrying out subchapter VII of this chapter, and which, with respect to such provisions, shall be the successor authority to the Community Services Administration established by subsection (a) of this section,

(iii) the Director of which shall be, in the performance of his functions, directly responsible to the Secretary, and

(iv) in which no policymaking functions, including the final approval of grants or contracts, of the Director shall be delegated to any regional office or official.

(3) For the purpose of this subsection and chapter 9 of Title 5 to the extent incorporated by this subsection, the following provisions apply:

(A) The term "resolution" means a joint resolution the matter after the resolving clause of which is: "That the Congress of the United States disapproves the Community Services Administration Reorganization Plan transmitted to the Congress by the President on ————————, 19—,." The blank spaces therein are to be appropriately filled.

(B) If, prior to the passage by one House of the joint resolution of that House with respect to the reorganization plan, such House receives from the other House a joint resolution with respect to the same plan, then the following procedure applies:

(i) If no resolution of the first House with respect to such plan has been referred to committee, no other resolution with respect to the same plan may be reported or (despite the provisions of section 912(a) of Title 5) be made the subject of a motion to discharge.

(ii) If a resolution of the first House with respect to such plan has been referred to committee—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan which have been referred to committee shall be the same as if no resolution from the other House with respect to such plan had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan the resolution from the other House with respect to such plan shall be automatically substituted for the resolution of the first House.

(4) The transfers authorized under subparagraphs (A) and (B) of paragraph (3) of this subsection shall be effective 30 days after the last date on which such reorganization plan could be disapproved under this subsection.

(f) Director of Community Services Administration in Department of Health, Education, and Welfare; Director of Community Economic Development Administration in Department of Commerce.

In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, the Director of the Community Services Administration and the Director of the Community Economic Development Administration shall each be appointed by the President, by and with the advice and consent of the Senate, except that the person serving as Director of the independent Community Services Administration pursuant to the advice and consent of the Senate may, if the President notifies the Congress accordingly, continue to serve as Director of the Community Services Administration within the Department of Health, Education, and Welfare; but the President may in such event submit to the Senate a nomination for such position.

(g) Transfer of property, records, and unexpended balances of appropriations, allocations, and other funds.

In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Director of the independent Community Services Administration, established by subsection (a) of this section, shall be transferred to the Director of the Community Services Administration, within the Department of Health, Education, and Welfare and to the Director of the Economic Development Administration within the Department of Commerce, as appropriate. All grants, applications for grants, contracts, and other agreements awarded or entered into by the Director of the independent Community Services Administration shall continue to be recognized so that there is no disruption of ongoing activities for which there is continuing authority.

(h) Transfer of personnel; continuing force and effectiveness of official actions; suits, actions, proceedings, or causes of action not abated.

(1) In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof all Federal personnel employed by the independent Community Services

Administration under the authorization and appropriations for this chapter transferred to the Community Services Administration within the Department of Health, Education, and Welfare or to the Community Economic Development Administration within the Department of Commerce shall, to the extent feasible, be assigned to related functions and organizational units in the appropriate Administration, without loss of salary, rank, or other benefits, including the right to representation and to the existing basic collective-bargaining agreement.

(2) In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof all official actions taken by the Director of the independent Community Services Administration, his designee, or any other person under the authority of this chapter which are in force on such date, and for which there is continuing authority under the provisions of this chapter, shall continue in full force and effect until modified, superseded, or revoked by the Director of the Community Services Administration within the Department of Health, Education and Welfare or the Director of the Community Economic Development Administration within the Department of Commerce, as appropriate.

(3) In the event that the reorganization plan submitted pursuant to subsection (e) of this section takes effect, on the effective date thereof all references to the independent Community Services Administration or to the Director of that Administration in any statute, reorganization plan, executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Community Services Administration within the Department of Health, Education and Welfare, or the Director of the Community Economic Development Administration, in the Department of Commerce as appropriate, or to the Director of either such Administration, as the case may be.

(4) In the event that the reorganization plan submitted pursuant to subsection (e) of this section takes effect, on the effective date thereof no suit, action, or other proceeding, and no cause of action, by or against the independent Community Services Administration, or any action by any officer thereof acting in his official capacity, shall abate by reason of the taking effect of such plan. (As amended Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310.)

REFERENCES IN TEXT

The Headstart, Economic Opportunity, and Community Partnership Act of 1974, referred to in subsec. (d)(3), is Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291. See Short Title of 1975 Amendment note under section 2701 of this title.

CODIFICATION

Designation "(a)" has been editorially inserted at the beginning of the section as the probable intent of Congress notwithstanding the absence of such a designation "(a)" in the original.

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions covering the establishment of the Community Services Administration as the successor authority to the Office of Economic Opportunity for provisions covering the establishment of the Office of Economic Opportunity.

§ 2942. Authority of Director.

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized, in carrying out his functions under this chapter, to—

* * * * *

(d) Reimbursement of other Federal agencies for performance of functions; delegation of powers. with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this chapter and, as necessary or appropriate, delegate any of his powers under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Community Services Administration and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Community Services Administration and the furnishing of such information by such Community Services Administration to such other agencies;

* * * * *

(k) Acquisition, handling, or disposal of property acquired in connection with loans, participations, and guaranties. notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real or personal property by the United States, deal with, complete, rent, renovate, modernize, or sell for cash or credit at his discretion any properties acquired by him in connection with loans, participations, and guaranties made by him pursuant to subchapter III of this chapter;

* * * * *

(As amended Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93–644, § 9(c)(1), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–644 substituted "Community Services Administration" for "Office of Economic Opportunity" and "Office" wherever appearing.

1974—Subsec. (k). Pub. L. 93–386 struck out reference to subchapter IV of this subchapter.

COMMUNITY ACTION PROGRAMS AND COMMUNITY ECONOMIC DEVELOPMENT POWERS NOT SUBJECT TO DELEGATION

Section 28 of Pub. L. 92–424, Sept. 19, 1972, 86 Stat. 705, was repealed by section 9(b) of Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2314, effective on the date on which a reorganization plan is effective under section 9(c) of Pub. L. 93–644. The reference to a reorganization plan being effective under section 9(c) of Pub. L. 93–644 was probably intended as a reference to the effective date of the reorganization plan covered in section 2941 (e)–(h) of this title.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regula- deemed, on or after Jan. 4, 1975, to refer to the Com- tions, or other official documents or proceedings to be munity Services Administration, or to the Director thereof, see section 2941 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2951 of this title; title 29 section 929.

§ 2943. Political activities of personnel of overall community action agencies; rules and regulations.

* * * * *

(c) No part of any funds appropriated to carry out this chapter, subpart 1 of part B of title V of the Higher Education Act of 1965, or any program administered by ACTION shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Community Services Administration, the Teacher Corps, or ACTION, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 431(a) of Title 2, and the term "Federal office" has the same meaning given such term by section 431(c) of Title 2. (As amended Pub. L. 92–424, § 20, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93–644, § 9(c)(2), Jan. 4, 1975, 88 Stat. 2314.)

REFERENCES IN TEXT

Subpart 1 of part B of title V of the Higher Education Act of 1965, referred to in subsec. (c), is classified to section 1101 et seq. of Title 20, Education.

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–644 substituted "Community Services Administration" for "Office of Economic Opportunity".

1972—Subsec. (c). Pub. L. 92–424 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2945. National Advisory Council on Economic Opportunity.

(a) Establishment; appointment of members; chairman.

There is hereby established in the Community Services Administration a National Advisory Council on Economic Opportunity (hereinafter referred to as the Advisory Council), to be composed of twenty-one members appointed, for staggered terms and without regard to the civil service laws, by the President. Such members shall be representative of the public in general and appropriate fields of endeavor related to the purposes of this chapter. The President shall designate the chairman from among such members. The Advisory Council shall meet at the call of the chairman but not less often than four times a year. The Director shall be an ex officio member of the Advisory Council.

* * * * *

(As amended Pub. L. 93–644, § 9(c)(3), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–644 substituted "in the Community Services Administration" for "in the Office".

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 924.

§ 2948. Annual reports.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2932, 2995 of this title.

§ 2949. Repealed. Pub. L. 93–644, § 9(c)(6), Jan. 4, 1975, 88 Stat. 2314.

Section, Pub. L. 88–452, title VI, § 609, Aug. 20, 1964, 78 Stat. 532; Pub. L. 90–222, title I, § 108(f), Dec. 23, 1967, 81 Stat. 715; Pub. L. 91–177, title I, § 109, Dec. 30, 1969, 83 Stat. 830; Pub. L. 92–424, §§ 12(b), 21, Sept. 19, 1972, 86 Stat. 692, 696; Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745, defined the terms "State", "financial assistance", "permanent resident of the United States", "Director", and "lower living standard budget".

§ 2951. Comparability of wages; average rate of compensation for substantially comparable services; minimum wages; relationship of salary to previous earnings; adjustment to annual basis.

* * * * *

(b) No person whose compensation exceeds $6,000 per annum and is paid pursuant to any grant, contract, or agreement authorized under part A of subchapter I or part A of subchapter II of this chapter (except a person compensated as provided in section 2942 of this title) shall be employed at a rate of compensation which exceeds by more than 20 percent the salary which he was receiving in his immediately preceding employment, but the Director may grant exceptions for specific cases. In determining salary in preceding employment for one regularly employed for a period of less than 12 months per year, the salary shall be adjusted to an annual basis. (As amended Pub. L. 93–608, § 1(23), Jan. 2, 1975, 88 Stat. 1970.)

REFERENCE IN TEXT

Part A of subchapter I, referred to in subsec. (b), was eliminated from subchapter I by the amendment made by section 4 of Pub. L. 93–644.

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–608 redesignated former subsec. (c) as (b). Former subsec. (b), which required a report by the Director relating to officers and employees whose compensation is limited by subsec. (a) and receiving a salary of $10,000 or more per year, was struck out.

Subsec. (c). Pub. L. 93–608 redesignated former subsec. (c) as (b).

§ 2962. Joint funding.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3

of Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget by section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

EXECUTIVE ORDER NO. 11466

Ex. Ord. No. 11466, Apr. 18, 1969, 34 F.R. 6727, set out as a note under this section, which related to the administration of certain jointly funded projects, was superseded by Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title.

§ 2965. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (As amended Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93–644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92–424 substituted "eight" for "five" succeeding fiscal years.

§ 2966. Transfer of funds.

Notwithstanding any limitation on appropriations for any program or activity under this chapter or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum for fiscal years ending prior to July 1, 1970, and not to exceed 15 per centum for fiscal years ending prior to July 1, 1972, and not to exceed 20 per centum for fiscal years ending thereafter; of the amount appropriated or allocated from any appropriation for the purpose of enabling the Director to carry out any such program or activity under this chapter may be transferred and used by the Director for the purpose of carrying out any other such program or activity under this chapter. (As amended Pub. L. 92–424, § 4, Sept. 19, 1972, 86 Stat. 690.)

AMENDMENTS

1972—Pub. L. 92–424 substituted "not to exceed 15 per centum for fiscal years ending prior to July 1, 1972, and not to exceed 20 per centum for fiscal years ending thereafter", for "15 per centum for fiscal years ending thereafter" and struck out prohibition against transfer of funds where the transfer results in increasing the amounts otherwise available for any program by more than 100 per centum in the case of any program for which the amounts otherwise available are $10,000,000 or less or more than 35 per centum in the case of a program for which the amounts otherwise available exceed $10,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702, 2702a, 2703b of this title.

§ 2968. Limitation on additional positions in specified classification categories in Office of Economic Opportunity for fiscal 1967.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 2971b. Guidelines, etc.; publication in Federal Register.

All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this chapter shall be published in the Federal Register at least thirty days prior to their effective date. (Pub. L. 88–452, title VI, § 623, as added Pub. L. 92–424, § 22, Sept. 19, 1972, 86 Stat. 696.)

§ 2971c. Nondiscrimination provisions.

(a) The Director shall not provide financial assistance for any program under this chapter unless the grant, contract, or agreement with respect to such program specifically provides that no person with respsonsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this chapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d–1 of this title. Section 2000d–2 of this title shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter. (Pub. L. 88–452, title VI, § 624, as added Pub. L. 92–424, § 23, Sept. 19, 1972, 86 Stat. 696.)

§ 2971d. Poverty line.

(a) Every agency administering programs authorized by this chapter in which the poverty line is a criterion of eligibility shall revise the poverty line at annual intervals, or at any shorter interval it deems feasible and desirable.

(b) The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Revisions required by subsection (a) of this section shall be made and issued not more than thirty days after the date on which the necessary consumer price index data becomes available. (Pub. L. 88–452, title VI, § 625, as added Pub. L. 92–424, § 24, Sept. 19, 1972, 86 Stat. 697, and amended Pub. L. 93–644, § 9(d), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–644 substituted "by the percentage change in the Consumer Price Index" for "by the average percentage change in the consumer price index".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702b, 5061 of this title.

§ 2971e. Independence of Legal Services Corporation.

Nothing in this chapter, except subchapter X of this chapter, and no reference to this chapter unless such reference refers to subchapter X of this chapter, shall be construed to affect the powers and activities of the Legal Services Corporation. (Pub. L. 88–452, title VI, § 626, as added Pub. L. 93–355, § 3(f), July 25, 1974, 88 Stat. 390.)

§ 2971f. Criminal provisions.

(a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under this chapter, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this chapter, shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under this chapter induces any person to give up any money or thing of any value to any person (including such grantee agency), shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Pub. L. 88–452, title VI, § 626, as added Pub. L. 93–644, § 9(e), Jan. 4, 1975, 88 Stat. 2314.)

CODIFICATION

Another section 626 of Pub. L. 88–452 was added by Pub. L. 93–355, § 3(f), July 25, 1974, 88 Stat. 390, and is set out as section 2971e of this title.

§ 2971g. Withholding certain federal taxes by anti-poverty agencies.

Upon notice from the Secretary of the Treasury or his delegate that any person otherwise entitled to receive a payment made pursuant to a grant, contract, agreement, loan or other assistance made or entered into under this chapter is delinquent in paying or depositing (1) the taxes imposed on such person under chapters 21 and 23 of Title 26, or (2) the taxes deducted and withheld by such person under chapters 21 and 24 of Title 26, the Director shall suspend such portion of such payment due to such person, which, if possible, is sufficient to satisfy such delinquency, and shall not make or enter into any new grant, contract, agreement, loan or other assistance under this chapter with such person until the Secretary of the Treasury or his delegate has notified him that such person is no longer delinquent in paying or depositing such tax or the Director determines that adequate provision has been made for such payment. In order to effectuate the purpose of this section on a reasonable basis the Secretary of the Treasury and the Director shall consult on a quarterly basis. (Pub. L. 88–452, title VI, § 627, as added Pub. L. 93–644, § 9(e), Jan. 4, 1975, 88 Stat. 2314.)

PART B.—COORDINATION

§ 2974. Responsibilities of the Director.

In addition to his other powers under this chapter, and to assist the President in coordinating the anti-poverty efforts of all Federal agencies, the Director shall—

* * * * *

(2) consult with interested agencies and groups, including State agencies described in section 2824 of the title and the National Advisory Council, with a view to identifying coordination problems that may warrant consideration by the Council or the President and, to the extent feasible or appropriate, initiate action for overcoming those problems, either through the Community Services Administration or in conjunction with other Federal, State, or local agencies; and

* * * * *

(As amended Pub. L. 92–424, § 27(b)(2), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93–644, § 9(c)(4), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Pub. L. 93–644 substituted "Community Services Administration" for "Office of Economic Opportunity" in item (2).

1972—Pub. L. 92–424 struck out introductory item (2) requirement that the Director carry on a continuing evaluation of all activities under this chapter, now covered by subchapter IX of this chapter.

§ 2979. Special responsibilities; training programs.

* * * * *

(b) The Secretary of Labor, pursuant to such agreements as may be necessary or appropriate (which may include arrangements for reimbursement) shall—

(1) be responsible for assuring that the Federal-State employment service provides and develops its capacity for providing maximum support for the programs described in subsection (a) of this section, and

(2) obtain from the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Director of the Community Services Administration, and the head of any other Federal agency administering a training program, such employment information as will facilitate placement of individuals being trained.

(As amended Pub. L. 93–644, § 9(c)(5), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 93–644 substituted "Community Services Administration" for "Office of Economic Opportunity".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 922.

SUBCHAPTER VII.—COMMUNITY ECONOMIC DEVELOPMENT

COMMUNITY ECONOMIC DEVELOPMENT POWERS NOT SUBJECT TO DELEGATION

Prohibition against delegation of Director functions under this subchapter to any other agency, see section 28 of Pub. L. 92–424, Sept. 19, 1972, 86 Stat. 705, set out as a note under section 2942 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702b, 2706, 2707, 2944, 5031 of this title.

§ 2981. Congressional statement of purpose.

The purpose of this subchapter is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits. (Pub. L. 88–452, title VII, § 701, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 697, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.)

CODIFICATION

A prior section 2981, Pub. L. 88–452, title VII, § 701, Aug. 20, 1964, 78 Stat. 534; Pub. L. 89–794, title VII, § 701(a), Nov. 8, 1966, 80 Stat. 1472; Pub. L. 90–222, title I, § 109, Dec. 23, 1967, 81 Stat. 722, respecting treatment of income for certain public assistance purposes, related to provisions of State plans and withholding of payments.

AMENDMENTS

1975—Pub. L. 93–644 re-enacted section without change.

CONGRESSIONAL REVIEW

Section 13 of Pub. L. 93–644 provided that:

"(a) The Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor shall conduct joint study which shall include—

"(1) a consideration of an appropriate administrative agency for the conduct of programs after July 1, 1975, under title VII of the Economic Opportunity Act [this subchapter],

"(2) review the extent to which programs and activities conducted under title VII of the Economic Opportunity Act [this subchapter] meet the overall need in the Nation for community economic development programs and the resources available from public and private funds in meeting those needs, and

"(3) the extent to which there is maximum utilization of the resources of all Federal agencies having responsibilities under title VII of the Economic Opportunity Act [this subchapter], and other public and private agencies and organizations.

"(b) The Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor shall submit such reports as they deem appropriate on their findings, together with any recommendations for further legislation, not later than one year after enactment of this title [Jan. 4, 1975]."

§ 2981a. Definitions.

As used in this subchapter the term "community development corporation" means a nonprofit organization responsible to residents of the area it serves which is receiving financial assistance under part A of this subchapter and any organization more than 50 per centum of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter. (Pub. L. 88–452, title VII, § 702, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.)

§ 2981b. Authorization of appropriations.

For the purpose of carrying out this subchapter, there are authorized to be appropriated $39,000,000 and such additional sums as may be necessary for fiscal year 1975 and such sums as may be necessary for each of the two succeeding fiscal years. (Pub. L. 88–452, title VII, § 703, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2316.)

PART A.—URBAN AND RURAL SPECIAL IMPACT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2981a of this title.

§ 2982. Congressional statement of purpose.

The purpose of this part is to establish special programs of assistance to nonprofit private locally initiated community development corporations which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration; (3) hold forth the prospect of continuing to have such impact after the termination of financial assistance under this part, and (4) provide financial and other assistance to start, expand, or locate enterprises in or near the area to be served so as to provide employment and ownership opportunities for residents of such areas, including those who are disadvantaged in the labor market because of their limited speaking, reading, and writing abilities in the English language. (Pub. L. 88–452, title VII, § 711, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2316.)

AMENDMENTS

1975—Pub. L. 93–644 substituted "nonprofit private locally initiated community development corporations which" for "private locally initiated community corporations and related nonprofit agencies, including cooperatives, or organizations conducting activities which" in the provisions preceding cl. (1) and added cl. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928n of this title.

§ 2982a. Establishment and scope of programs.

(a) The Director is authorized to provide financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations for the payment of all or part of the cost of programs which are designed to carry out the purposes of this part. Financial assistance shall be provided so that each community economic development program is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

(1) community economic and business development programs, including but not limited to: (A) programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the area served so

as to provide employment and ownership opportunities for residents of such areas, and (B) programs for small businesses located in or owned by residents of such areas;

(2) community development including industrial parks and housing activities which contribute to an improved environment and which create new training, employment, and ownership opportunities for residents of such area;

(3) training and public service employment programs and related services for unemployed or low-income persons which support and complement community development programs financed under this part, including, without limitation, activities such as those described in the Comprehensive Employment and Training Act of 1973; and

(4) social service programs which support and complement community economic development programs financed under this part, including but not limited to child care, educational services, health services, credit counseling, energy conservation, and programs for the maintenance of housing facilities.

(b) The Director shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas. (Pub. L. 88–452, title VII, § 712, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93–386, § 2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2316.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(3), is classified to section 801 et seq. of Title 29, Labor.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–644 substituted "financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations" for "financial assistance to community development corporations and to cooperatives and other nonprofit agencies in conjunction with qualifying community development corporations" and "Financial assistance shall be provided so that each community economic development program" for "Such programs shall be restricted in number so that each" in the provisions preceding par. (1), "community economic and business development programs, including but not limited to" for "economic and business development programs, including" in par. (1), "community economic development including industrial parks", "improved environment", and "ownership opportunities for residents of such areas" for "community development", "improved living environment", and "ownership opportunities", respectively, in par. (2), and "training and public service employment programs and related services for unemployed or low-income persons" for "manpower training programs for unemployed or low-income persons" and "community development programs financed under this part, including, without limitation, activities, such as those described in the Comprehensive Employment and Training Act of 1973; and" for "economic, business, housing, and community development programs, including without limitation activites such as those described in part B of subchapter I of this chapter" in par. (3), and added par. (4).

1974—Pub. L. 93–386 struck out reference to subchapter IV of this chapter.

§ 2982b. Financial assistance requirements.

(a) The Director, under such regulations as he may establish, shall not provide financial assistance for any community economic development program under this part unless he determines that—

(1) such community development corporation is responsible to residents of the area served (i) through a governing body not less than 50 per centum of the members of which are area residents and (ii) in accordance with such other guidelines as may be established by the Director, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement;

(2) the program will be appropriately coordinated with local planning under this subchapter, with housing and community development programs, with employment and training programs, and with other relevant planning for physical and human resources in the areas served;

(3) adequate technical assistance is made available and committed to the programs being supported;

(4) such financial assistance will materially further the purposes of this part;

(5) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met;

(6) all projects and related facilities will, to the maximum feasible extent, be located in the areas served;

(7) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing, cooperatively or otherwise, by residents of the area served;

(8) projects will be planned and carried out with the fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purposes of this subchapter;

(9) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(10) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal or other funds in connection with work that would otherwise be performed;

(11) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) preference will be given to low-income or economically disadvantaged residents of the areas served in filling jobs and training opportunities; and

(14) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas other than those for which programs are established under this part.

(b) Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in an increase in unemployment in the area of original location.

(c) The level of financial assistance for related purposes under this chapter, or any other program for Federal financial assistance, to the area served by a special impact program shall not be diminished in order to substitute funds authorized by this part. (Pub. L. 88–452, title VII, § 713, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2317.)

AMENDMENTS

1975—Pub. L. 93–644, in the provisions preceding par. (1), substituted "any community economic development program" for "any program or component project under this part".

Subsec. (a)(1). Pub. L. 93–644 substituted "is responsible to residents of the area served (i) through a governing body not less than 50 per centum of the members of which are area residents and (ii) in accordance with such other guidelines as may be established by the Director, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement" for "is responsive to residents of the area under guidelines established by the Director".

Subsec. (a)(2). Pub. L. 93–644 redesignated subsec. (a)(5) as (a)(2) and in subsec. (a)(2) as so redesignated substituted "with housing and community development programs, with employment and training programs" for "the Demonstration Cities and Metropolitan Development Act of 1966".

Subsec. (a)(3) to (5). Pub. L. 93–644 added subsec. (a)(3) to (5).

Subsec. (a)(6) to (8). Pub. L. 93–644 redesignated subsec. (a)(2) to (4) as (a)(6) to (8), respectively, and in subsec. (a)(8) as so redesignated substituted "fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purpose of this subchapter" for "maximum participation of local businessmen and financial institutions and organizations by their inclusion on program boards of directors, advisory councils, or through other appropriate means".

Subsec. (a)(9) to (12). Pub. L. 93–644 added subsec. (a)(9) to (12).

Subsec. (a)(13), (14). Pub. L. 93–644 redesignated subsec. (a)(7) and (8) as subsec. (a)(13) and (14), respectively.

Subsec. (c). Pub. L. 93–644 inserted ", or any other program for Federal financial assistance," following "related purposes under this chapter".

§ 2982c. Federal share of program costs.

Federal assistance to any program carried out pursuant to this part, including grants used by community development corporations for capital improvements, shall (1) not exceed 90 per centum of the cost of such program including costs of administration unless the Director determines that the assistance in excess of such percentage is required in furtherance of the purposes of this part, and (2) be made available for deposit to the order of the grantee, under conditions which the Director deems appropriate, within thirty days following approval of the grant agreement by the Director and such grantee of the grant agreement. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. Capital investments made with funds granted as a result of the Federal share of the costs of programs carried out under this subchapter, and the proceeds from such capital investments, shall not be considered Federal property. Upon investment, title rights vest in the community development corporation. The Federal Government retains the right to direct that on severance of the grant relationship the assets purchased continue to be used for the original purpose for which they were granted. (Pub. L. 88–452, title VII, § 714, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 699, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions covering the Federal share of program costs, formerly set out in section 2982d of this title, for provisions covering the application of other Federal resources, including Small Business Administration programs, Economic Development Administration programs, and Department of Housing and Urban Development programs, which were transferred to sections 2985a et seq. of this title.

§ 2982d. Federal share of program costs; non-Federal contributions; capital investments and proceeds not considered Federal property.

CODIFICATION

Section, Pub. L. 88–452, title VII, § 715, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 700, was omitted in general reorganization and amendment of this subchapter by Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2315. Provisions formerly contained in this section were transferred to section 2982c of this title.

PART B.—SPECIAL RURAL PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2984 of this title.

§ 2983. Congressional statement of purpose.

It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence, as a supplement to existing similar programs conducted by other departments and agencies of the Federal Government. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise. (Pub. L. 88–452, title VII, § 721, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 700, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93–644 re-enacted section without change.

§ 2983a. Financial assistance.

(a) Low-income rural families; amount.

The Director is authorized to provide financial assistance, including loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time, to any low-income rural family where, in the judgment of the Director, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

(3) participate in cooperative associations, or to finance nonagricultural enterprises which will enable such families to supplement their income.

(b) Local cooperative associations in rural areas; defrayable costs.

The Director is authorized to provide financial assistance to local cooperative associations in rural areas containing concentrations or substantial numbers of low-income persons for the purpose of defraying all or part of the costs of establishing and operating cooperative programs for farming, purchasing, marketing, processing, and to improve their income as producers and their purchasing power as consumers, and to provide such essentials as credit and health services. Costs which may be defrayed shall include but not be limited to—

(1) administrative costs of staff and overhead;

(2) costs of planning and developing new enterprises;

(3) costs of acquiring technical assistance; and

(4) initial capital where it is determined by the Director that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

(Pub. L. 88–452, title VII, § 722, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 700, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93–644 re-enacted section without change.

§ 2983b. Limitations on assistance.

(a) No financial assistance shall be provided under this part unless the Director determines that—

(1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;

(2) adequate technical assistance is made available and committed to the programs being supported;

(3) such financial assistance will materially further the purposes of this part; and

(4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

(b) The level of financial assistance for related purposes under this chapter to the area served by a program under this part shall not be diminished in order to substitute funds authorized by this part. (Pub. L. 88–452, title VII, § 723, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 701, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93–644 re-enacted section without change.

PART C.—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

§ 2984. Development loans.

(a) Prerequisites to loans, guarantees, or other financial assistance.

The Director is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations, and families and local cooperatives eligible for financial assistance under this subchapter, for business, housing, and community development projects which the Director determines will carry out the purposes of this part. No loans, guarantees, or other financial assistance shall be provided under this section unless the Director determines that—

(1) there is reasonable assurance of repayment of the loan;

(2) the loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and

(3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made.

Loans made by the Director pursuant to this section shall bear the interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes, except that, for the five years following the date in which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Director in light of the particular needs of the borrower which rate shall not be lower than 1 per centum. All such loans shall be repayable within a period of not more than thirty years.

(b) Authority to adjust interest rates, grant moratoriums, collect or compromise obligations.

The Director is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by him, and to take such other actions in respect to such loans as he shall determine to be necessary or appropriate, consistent with the purposes of this section.

(c) Development Loan Fund; Rural Development Loan Fund; Community Development Loan Fund.

(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

(2) The Rural Development Loan Fund shall consist of the remaining funds provided for in part A of subchapter III of this chapter and such amounts as may be deposited in such Fund by the Director out of funds made available from appropriations for the purposes of carrying out this part. The Director shall utilize the services of the Farmers Home Administration in administering the Fund.

(3) The Community Development Loan Fund shall consist of such amounts as may be deposited in such fund by the Secretary out of funds made available from appropriations for the purpose of carrying out this subchapter. The Secretary may make deposits in the Community Development Loan Fund in any fiscal year in which he has made available for grants to community development corporations under part B of this subchapter not less than $60,000,000 out of funds made available from appropriations for the purpose of carrying out this subchapter. (Pub. L. 88–452, title VII, § 731, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 701, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2319.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions formerly contained in section 2984a of this title covering the establishment and uses of a Development Loan Fund, consisting of a Rural Development Loan Fund and a Community Development Loan Fund, for provisions covering training and technical assistance, which were transferred to section 2985 of this title.

§ 2984a. Model Community Economic Development Finance Corporation.

(a) To the extent he deems appropriate, the Director shall utilize funds available under this part to prepare a plan of action for the establishment of a Model Community Economic Development Finance Corporation to provide a user-controlled independent and professionally operated long-term financing vehicle with the principal purpose of providing financial support for community economic development corporations, cooperatives, other affiliated and supportive agencies and organizations associated with community economic development corporations, and other entities eligible for assistance under this subchapter.

(b) Not later than June 1, 1975, the Director shall submit to the appropriate committees of the Congress the plan required by this section. (Pub. L. 88–452, title VII, § 732, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 702, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2320.)

CODIFICATION

The designation "(b)" in subsec. (b) was, in the original subsec. "(d)". Change in designation was made for purposes of codification.

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions for the establishment of the Model Community Economic Development Finance Corporation for provisions, which were transferred to section 2984 of this title, covering the establishment and uses of a Development Loan Fund, consisting of a Rural Development Loan Fund and a Community Development Loan Fund.

§ 2984b. Evaluation and research; report to Congress.

CODIFICATION

Section, Pub. L. 88–452, title VII, § 733, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 703, which provided for evaluation and research and a report to Congress, was omitted in the general reorganization and amendment of this subchapter by Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.

PART D.—SUPPORTATIVE PROGRAMS AND ACTIVITIES

§ 2985. Training and technical assistance.

(a) The Director shall provide, directly or through grants, contracts or other arrangements such technical assistance and training of personnel as may be required to effectively implement the purposes of this subchapter. No financial assistance shall be provided to any public or private organization under this section unless the Director provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

(b) Technical assistance to community development corporations and both urban and rural cooperatives may include planning, management, legal preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this subchapter.

(c) Training for employees of community development corporations and for employees and members of urban and rural cooperatives shall include, but not be limited to, on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which contribute to the effectiveness of programs assisted under this subchapter. (Pub. L. 88–452, title VII, § 741, as added Pub. L. 92–424, § 25(a), Sept. 19, 1972, 86 Stat. 703, and amended Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2321.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions formerly contained in section 2984 of this title covering training and technical assistance for provisions setting out the Director's authority in carrying out the Community Economic Development program and the duration of the program.

§ 2985a. Application of other Federal resources; Small Business Administration programs.

(a)(1) Funds granted under this part which are invested directly or indirectly, in a small business investment company or a local development company, limited small business investment company shall be included as "private paid-in capital and paid-in surplus," "combined paid-in capital and paid-in surplus," and "paid-in capital" for purposes of sections 682, 683, and 696, respectively of Title 15.

(2) Within ninety days of January 4, 1975, the Administrator of the Small Business Administration, after consultation with the Secretary, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this part.

(b)(1) Areas selected for assistance under this subchapter shall be deemed "redevelopment areas" within the meaning of section 3161 of this title, shall qualify for assistance under the provisions of title I and title II of the Public Works and Economic Development Act of 1965, and shall be deemed to have met the overall economic development program requirements of section 3142(b)(10) of this title.

(2) Within ninety days of January 4, 1975, the Secretary shall prescribe regulations which will insure that community development corporations and cooperatives shall qualify for assistance and shall be eligible to receive such assistance under all such programs of the Economic Development Administration as shall further the purposes of this subchapter. (Pub. L. 88–452, title VII, § 742, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2321.)

REFERENCES IN TEXT

Titles I and II of the Public Works and Economic Development Act of 1965, referred to in subsec. (b)(1), are classfied to sections 3131 et seq. and 3141 et seq., respectively, of this title.

§ 2985b. Department of Housing and Urban Development programs.

The Secretary of Housing and Urban Development, after consultation with the Director, shall take all necessary steps to assist community development corporations and local cooperative associations to qualify for and receive (1) such assistance in connection with technical assistance, counseling to tenants and homeowners, and loans to sponsors of low- and moderate-income housing under section 1701x of Title 12, as amended by section 811 of the Housing and Community Development Act of 1974, (2) such land for housing and business location and expansion under title I of the Housing and Community Development Act of 1974, and (3) such funds for comprehensive planning under section 461 of Title 40, as amended by section 401 of the Housing and Community Development Act of 1974, as shall further the purposes of this chapter. (Pub. L. 88–452, title VII, § 743, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2322.)

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1974, referred to in text, is classified to section 5301 et seq. of this title.

The Housing and Community Development Act of 1974, referred to in the text, is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633.

§ 2985c. Department of Agriculture and Farmers Home Administration programs.

(a) The Secretary of Agriculture or, where appropriate, the Administrator of the Farmers Home Administration, after consultation with the Director, shall take all necessary steps to insure that community development corporations and local cooperative associations shall qualify for and shall receive (1) such assistance in connection with housing development under the Housing Act of 1949, (2) such assistance in connection with housing, business, industrial, and community development under the Consolidated Farmers Home Administration Act of 1961 and the Rural Development Act of 1972, and (3) such further assistance under all such programs of the United States Department of Agriculture, as shall further the purposes of this subchapter.

(b) On or before six months after January 4, 1975, and annually thereafter, the Secretary shall submit to the Congress a detailed report setting forth a description of all Federal agency programs which he finds relevant to achieving the purposes of this part and the extent to which such programs have been made available to community development corporations receiving financial assistance under this part including specifically the availability and effectiveness of programs referred to in subsection (a) of this section. Where appropriate, the report required under this subsection also shall contain recommendations for the more effective utilization of Federal agency programs for carrying out the purposes of this subchapter. (Pub. L. 88–452, title VII, § 744, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2322.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is classified principally to section 1441 et seq. of this title. For additional classifications, see Tables volume.

The Consolidated Farmers Home Administration Act of 1961, referred to in subsec. (a), is classified to section 1921 et seq. of Title 7, Agriculture.

The Rural Development Act of 1072, referred to in subsec. (a), is Pub. L. 92–419, Aug. 30, 1972, 86 Stat. 657. For classification to the Code see Tables volume.

§ 2985d. Coordination and eligibility.

(a) The Director shall take all necessary and appropriate steps to encourage Federal departments and agencies and State and local governments to make grants, provide technical assistance, enter into contracts, and generally support and cooperate with community development corporations and local cooperative associations.

(b) Eligibility for assistance under other Federal programs shall not be denied to any applicant on the ground that it is a community development corporation or any other entity assisted under this subchapter. (Pub. L. 88–452, title VII, § 745, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2322.)

§ 2985e. Evaluation and research.

(a) Each program for which grants are made under this subchapter shall provide for a thorough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Director, in consultation with existing grantees familiar with programs carried out under this chapter, may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. In evaluating the performance of any community development corporation funded under part A of this subchapter, the criteria for evaluation shall be based upon such program objectives, goals, and priorities as are consistent with the purposes of

this subchapter and were set forth by such community development corporation in its proposal for funding as approved and agreed upon by the Director or as subsequently modified from time to time by mutual agreement between the Director and such community development corporation.

(b) The Director shall conduct, either directly or through grants or other arrangements, research designed to suggest new programs and policies to achieve the purposes of this subchapter in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents. (Pub. L. 88–452, title VII, § 746, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2322.)

§ 2985f. Planning grants.

In order to facilitate the purposes of this subchapter, the Director is authorized to provide financial assistance to any public or private nonprofit agency or organization for planning of community economic development programs and cooperative programs under this subchapter. (Pub. L. 88–452, title VII, § 747, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2323.)

§ 2985g. Nondiscrimination.

(a) The Director shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d–1 of this title. Section 2000d–2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter. (Pub. L. 88–452, title VII, § 748, as added Pub. L. 93–644, § 10(a), Jan. 4, 1975, 88 Stat. 2323.)

SUBCHAPTER VIII.—NATIVE AMERICAN PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707 of this title.

§ 2991. Short title.

This subchapter may be cited as the "Native American Programs Act of 1974". (Pub. L. 88–452, title VIII, § 801, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991, Pub. L. 88–452, title VIII, § 801, as added Pub. L. 89–794, title VIII, § 801. Nov. 8, 1966, 80 Stat. 1472, and amended Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722; Pub. L. 92–424, § 26(a), Sept. 19, 1972, 86 Stat. 703, relating to Congressional statement of purpose, was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417. See section 4951 of this title.

§ 2991a. Congressional statement of purpose.

The purpose of this subchapter is to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives and Alaskan Natives. (Pub. L. 88–452, title VIII, § 802, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991a, Pub. L. 88–452, title VIII, § 802, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, covering the recruitment, selection, training, referral, and assignment of volunteers and the consent of the Governors of the States in which these activities were conducted, was omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

§ 2991b. Financial assistance for native American projects.

(a) The Secretary is authorized to provide financial assistance to public and nonprofit private agencies including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this subchapter. In determining the projects to be assisted under this subchapter, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible.

(b) Financial assistance extended to an agency under this subchapter shall not exceed 80 per centum of the approved costs of the assisted project, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this subchapter.

(c) No project shall be approved for assistance under this subchapter unless the Secretary is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Secretary may waive this requirement in any case in which he determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this subchapter. (Pub. L. 88–452, title VIII, § 803, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (a), is classified to section 1601 et seq. of Title 43, Public Lands.

PRIOR PROVISIONS

A prior section 2991b, Pub. L. 88–452, title VIII, § 803, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, providing for the stipend for volunteers, living, travel, and leave allowances, and subsistence, was omitted in the general reorganization of ths subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2991f of this title.

§ 2991c. Technical assistance and training.

The Secretary may provide, directly or through other arrangements, (1) technical assistance to public and private agencies in developing, conducting, and administering projects under this subchapter, and (2) short-term in-service training for specialized or other personnel which is needed in connection with projects receiving financial assistance under this subchapter. (Pub. L. 88–452, title VIII, § 804, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991c, Pub. L. 88–452, title VIII, § 804, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, and amended Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 224, providing for the applicability of specified Federal laws, the required oath or affirmation, and the status of volunteers as Federal employees and as persons employed in the executive branch of the Federal Government, was omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722. See section 2994b of this title.

§ 2991d. Research, demonstration, and pilot projects.

(a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives. (Pub. L. 88–462, title VIII, § 805, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991d, Pub. L. 88–452, title VIII, § 805, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1474, providing for special programs and projects and placing limitations on the use of appropriated funds, was omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722. See section 2994c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2991f of this title.

§ 2991e. Announcement of research, demonstration, or pilot projects.

(a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Secretary determines that it would not be consistent with the purposes of this subchapter, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) of this section shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results. (Pub. L. 88–452, title VIII, § 806, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

PRIOR PROVISIONS

A prior section 2991e, Pub. L. 88–452, title VIII, § 806, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1474, providing for the duration of the VISTA program through June 30, 1970, was omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722. See, section 2994d of this title.

§ 2991f. Submission of plans to State and local officials.

(a) No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a State other than on or in an Indian reservation or Alaskan Native village or Hawaiian Homestead, unless the Secretary has notified the chief executive officer of the State of his decision to provide that assistance.

(c) No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a city, county, or other major political subdivision of a State, other than on or in an Indian reservation or Alaskan Native village, or Hawaiian Homestead, unless the Secretary has notified the local governing officials of the political subdivision of his decision to provide that assistance. (Pub. L. 88–452, title VIII, § 807, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

§ 2991g. Records and audits.

(a) Each agency which receives financial assistance under this subchapter shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by

other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this subchapter that are pertinent to the financial assistance received under this subchapter. (Pub. L. 88–452, title VIII, § 808, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

§ 2991h. Appeals, notice, and hearing.

The Secretary shall prescribe procedures to assure that—

(1) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88–452, title VIII, § 809, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2326.)

REORGANIZATION PLAN NO. 1 OF 1971

Eff. July 1, 1971, 36 F.R. 11181, 85 Stat. 819.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

REORGANIZATION OF CERTAIN VOLUNTEER PROGRAMS

SECTION 1. ESTABLISHMENT OF AGENCY

[Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section established the "Action" Agency and is now covered by section 5041 of this title.]

SEC. 2. TRANSFER OF FUNCTIONS

(a) [Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Subsec. (a) transferred to the Director of Action the functions of the Director of the Office of Economic Opportunity under sections 2991 to 2994d of this title, the functions of the Secretary of Health, Education, and Welfare under sections 3044 to 3044e of this title, the functions of the Small Business Administration under section 637(b) of Title 15, and other functions incidental to or necessary for the performance of the foregoing functions, including functions conferred upon the Director of the Office of Economic Opportunity by section 2941 of this title. Subject matter is now covered by section 4951 et seq. and provisions set out as a note under section 5041 of this title.]

(b) The function conferred upon the Director of the Peace Corps by section 4(c) (4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Pub. L. 93–113, title VI, § 601(c), Oct. 1, 1973, 87 Stat. 416. Section related to performance of transferred functions and is now covered by section 5042 and provisions set out as a note under section 5041 of this title.]

SEC. 4. INCIDENTAL TRANSFERS

[Superseded. Pub. L. 93–113, title VI, § 601(c), Oct. 1, 1973, 87 Stat. 416. Section related to incidental transfers and is now covered by section 5044 and provisions set out as a note under section 5041 of this title.]

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

America is a nation unique in the political history of the world. More than any other nation, it is the sum of the energies and efforts of all of its people. The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy. In the past decade, the Federal Government has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs, both domestically and abroad. Many of these efforts have had marked success. But the circumstances in which these efforts were conceived have changed.

National and international needs have altered. The opportunities for voluntary service must be adapted and improved to meet these new needs.

Recognizing that private channels of voluntary action are a vital source of strength in our national life, I have supported the establishment and development of the National Center for Voluntary Action. The National Center is a private, non-profit partner in the effort to generate and encourage volunteer service. The Center works to promote the establishment of local Voluntary Action Centers, as well as to assist in the expansion of voluntary action organizations already in existence. It stimulates voluntary action by providing information on successful voluntary efforts, and it assists in directing those who wish to volunteer services to areas and endeavors in which their services are needed.

The National Center for Voluntary Action is functioning now to fill a vital need in the private voluntary sector. Now we must turn our attention to bringing government volunteer programs into line with new national priorities and new opportunities for meeting those priorities. We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service. This is no longer a matter of choice. We cannot afford to misuse or ignore the considerable talents and energies of our people. In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively.

One matter of consequence to the problems of properly channeling volunteer services and expanding government's role in the development of volunteer resources is the proliferation of government volunteer programs. It was perhaps inevitable that there programs would be generated almost at random across the spectrum of government concern for human needs. This occurred in a period when the Federal Government was still attempting to

define its relationship with, and its purposes in, the area of voluntary service. Now the role of government has been confirmed and its responsibilities and obligations are clear. Meeting these responsibilities and obligations will be a long, difficult, and challenging adventure. But it is an adventure we can look to with excitement and with the knowledge that the only sure source of failure can be a failure of the will of the American people. I do not believe it will fail.

The foundation for a greatly expanded government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it. To accomplish this, I propose a reorganization of the present volunteer service system. Accordingly, I herewith transmit to the Congress Reorganization Plan No. 1 of 1971, prepared in accordance with chapter 9 of title 5 of the United States Code. Reorganization would bring together within a single agency a number of voluntary action programs presently scattered throughout the executive branch of the Federal Government. The new agency would be called Action.

COMPOSITION

Under the reorganization plan Action would administer the functions of the following programs:

—Volunteers in Service to America: VISTA volunteers work in domestic poverty areas to help the poor break the poverty cycle.

—Auxiliary and Special Volunteer Programs in the Office of Economic Opportunity: At present the National Student Volunteer Program is administered under this authority. This program stimulates student voluntary action programs which deal with the problems of the poor.

—Foster Grandparents: This program provides opportunities for the elderly poor to assist needy children.

—Retired Senior Volunteer Program: RSVP provides opportunities for retired persons to perform voluntary services in their communities.

—Service Corps of Retired Executives: SCORE provides opportunities for retired businessmen to assist in the development of small businesses.

—Active Corps of Executives: ACE provides opportunities for working businessmen to assist in the development of small businesses.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which would result from this action.

Upon the establishment of Action, I would delegate to it the principal authority for the Peace Corps now vested in me as President and delegated to the Secretary of State. In addition, the function of the Office of Voluntary Action, now operating in the Department of Housing and Urban Development, would be transferred to the new agency by executive action.

Finally, I will submit legislation which would include the transfer of the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. This legislation would expand authority to develop new uses of volunteer talents, it would provide a citizens' advisory board to work with the director of the new agency, and it would provide authority to match private contributions.

GOALS

Although reorganization is only a step, it is the essential first step toward the goal of a system of volunteer service which uses to the fullest advantages the power of all the American people to serve the purposes of the American nation.

In pursuing this goal, the new agency would, first, expand the testing and development of innovations in voluntary actions. Health services, housing, the environment, educational development, manpower, and community planning are just a few of the areas in which we would act to accomplish more through voluntary service, and I intend to ask for additional funds and additional authority for Action to explore new approaches to these and other problems.

In the future, we are going to have to find new ways for more people to fulfill themselves and to lead satisfying and productive lives. The problems are of concern even now, but they must be put in perspective quickly because they will soon be upon us. I believe at least some of the answers will be found in volunteer service. Action would work to find those answers and apply them.

Second, there are many Americans who want to contribute to our national life through voluntary citizen service, but who cannot serve full time. Their contributions must not be wasted. Volunteers in full-time service would work with part-time volunteers and the new agency would develop and provide opportunities for more people to give part-time service.

Third, Action would bring together in one place programs which appeal predominantly to younger Americans with those that appeal to older Americans, and would work to bring the energy, the innovative spirit, the experience, and the skills of each to bear on specific problems. The generations in America share America's problems—they must share in the search for solutions so that we all may share in the benefits of our solutions.

Fourth, Action would develop programs for combining foreign service with domestic service to accommodate volunteers interested in such an opportunity. I believe that young people in particular would be interested in the chance for this experience and would greatly benefit from it. I know there would be great value, for example, in permitting those who have served the needs of the poor abroad to turn their skills and experience to helping the poor at home, and vice versa. In addition, if volunteers are to reap the full benefit of serving, and if they are to be able to provide others the full benefit of their service, then we must open the doors to a fuller exchange of ideas and experiences between overseas and domestic volunteer efforts. These exchanges would considerably enhance the value of the experience gained in these endeavors by broadening the areas in which that experience is applied.

Fifth, at the present time valuable professional skills offered in voluntary service are too frequently limited by narrow categorical programs when their broader application is urgently needed. For example, the contributions of businessmen made through SCORE and ACE are provided only through the Small Business Administration. We know that the skills of business can be used in many areas where they are not used presently. Action would open new channels for service and would permit a more extensive utilization of business and other vocational and professional abilities.

Finally, by centralizing administrative functions of the volunteer services, the new agency would provide a more effective system of recruitment, training, and placement of full-time volunteers than the present circumstances permit. It would provide a single source of information and assistance for those who seek to volunteer full-time service. And it would permit more effective management of services than is currently possible in the administration of volunteer programs, as well as the more efficient use of resources.

PRINCIPLES

In restructuring our system of volunteer services, we can accomplish the goals which I have set forth. But we must do more than this. We must restructure our thinking about volunteer services. We must determine how to use our volunteer resources to accomplish more than they accomplish now. We need an increased effort to stimulate broader volunteer service, to involve more volunteers, and

to involve them not simply as foot-soldiers in massive enterprises directed from the top, but in those often small and local efforts that show immediate results, that give immediate satisfaction—those efforts that return to citizens a sense of having a hand in the business of building America. Part of our rethinking of this matter must look to the past so that we may properly meet the needs of the present and prepare for the possibilities of the future.

Volunteer service in poverty areas is a case in point. We already have considerable experience in dealing with the problems of poverty through the use of volunteers. Now we must build upon this experience and find new ways to use more effectively the volunteers presently serving in poverty areas, as well as in all other areas, and to stimulate new programs so that additional numbers of volunteers can assist in the solution of community and national problems.

In line with this effort to build on what we have learned, Action would function with particular concern for these basic principles:

—It would encourage local initiative, and would support local programs to solve local problems.

—Where appropriate, the new agency would assign volunteers to assist, and work under the technical supervision of other Federal agencies, State and local agencies or organizations, and private sponsors.

—The services of local part-time volunteers would be sought and supported in the effort to accomplish specific jobs. They would be assisted, when necessary, by full-time volunteers.

—Universities and colleges, State, city and private organizations must be engaged in the effort to broaden opportunities for volunteer service and under the new agency they would be assisted in these efforts.

—Finally, to meet the increasing need for skilled volunteers Action would give increased emphasis to recruiting and applying the skills of trained craftsmen and professional workers.

FUNDING

To insure that the new agency has the financial resources to begin working toward the goals I have outlined, I will seek for this agency an additional $20 million above the budget requests I have already submitted for the component agencies. These funds would be directed primarily to finding new ways to use volunteer services.

CONCLUSION

The early nineteenth century observer of America, Alexis de Tocqueville, was intrigued by the propensity of Americans to join together in promoting common purposes. "As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance, and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar * * *."

Though we have seen the success of Government volunteer efforts in the past ten years, I believe voluntary citizen service is still little more than a power seen from afar. In relation to its potential, this power is virtually undeveloped. We must develop it.

There are those today, as there always will be, who find infinite fault with life in this Nation and who conveniently forget that they share responsibility for the quality of life we lead. But our needs are too great for this attitude to be accepted. America belongs to all of its people. We are all responsible for the direction this Nation will take in the century ahead, for the quality of life we will lead and our children will lead. We are all responsible, whether we choose to be or not, for the survival and the success of the American experience and the American dream.

So there is little room for the luxury of making complaints without taking commitments.

America must enlist the ideals, the energy, the experience, and the skills of its people on a larger scale than it ever has in the past. We must insure that these efforts be used to maximum advantage. We must insure that the desire to serve be linked with the opportunity to serve. We must match the vision of youth with the wisdom of experience. We must apply the understanding gained from foreign service to domestic needs, and we must extend what we learn in domestic service to other nations. And in all these endeavors, I believe, we can bring the power seen from afar to focus clearly on the problems and the promise of our time.

RICHARD NIXON.

THE WHITE HOUSE, March 24, 1971.

§ 2992. Evaluation of projects.

(a) Description and measurement of project impact, effectiveness, and structure and mechanisms for delivery of services.

The Secretary shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this subchapter including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(b) General standards for evaluation.

Prior to obligating funds for the programs and projects covered by this subchapter with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this subchapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c) Independent evaluations.

In carrying out evaluations under this subchapter, the Secretary may require agencies which receive assistance under this subchapter to provide for independent evaluations.

(d) Specificity of views.

In carrying out evaluations under this subchapter, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(e) Publication of results; submission to Congress.

The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) Evaluation results as United States property.

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this subchapter shall become the property of the United States. (Pub. L. 88–452, title VIII, § 810, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2326.)

PRIOR PROVISIONS

A prior section 2992, Pub. L. 88–452, title VIII, § 810, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722, relating to authority to establish full-time programs, was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992a. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this subchapter, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 88–452, title VIII, § 811, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2992a, Pub. L. 88–452, title VIII, § 811, as added Pub. L. 90–222, Title I, § 110, Dec. 23, 1967, 81 Stat. 723, and amended Pub. L. 92–424, § 26(b), Sept. 19, 1972, 86 Stat. 703, relating to terms of service, providing in: subsec. (a) for commitment to full-time service; subsec. (b) for one-year enrollment and shorter enrollment for volunteer associates; and subsec. (c) for oath or affirmation, was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992b. Delegation of authority.

(a) The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of his functions, powers, and duties under this subchapter, as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

(b) Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this subchapter.

(c) Funds appropriated for the purpose of carrying out this subchapter may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are authorized and appropriated. (Pub. L. 88–452, title VIII, § 812, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

PRIOR PROVISIONS

A prior section 2992b, Pub. L. 88–452, title VIII, § 812, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 723, relating to support of full-time volunteers, providing in: subsec. (a) for stipend and allowances; subsec. (6) for payment upon completion of term and advancement of accrued stipend; and subsec. (c) for counseling, was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992c. Definitions.

As used in this subchapter, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation or Alaskan Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, and community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaskan Native village or group, including any lands selected by Alaskan Natives or Alaskan Native organizations under the Alaska Native Claims Settlement Act;

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(Pub. L. 88–452, title VIII, § 813, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is classified to section 1601 et seq. of Title 43, Public Lands.

§ 2992d. Authorization of appropriations.

There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter, such sums as may be necessary for fiscal years 1975 through 1977. (Pub. L. 88–452, title VIII, § 814, as added Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

§§ 2993 to 2993b. Repealed. Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

Section 2993, Pub. L. 88–452, title VIII, § 820, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, and amended Pub. L. 92–424, § 26(c), Sept. 19, 1972, 86 Stat. 703, related to community service programs, providing in: subsec. (a) for term of service and range of activities; subsec. (b) for support and allowances; and subsec. (c) for allowance of service as non-Federal contribution.

Section 2993a, Pub. L. 88–452, title VIII, § 821, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, and amended Pub. L. 92–424, § 26(d), Sept. 19, 1972, 86 Stat. 703, related to special volunteer programs.

Section 2993b, Pub. L. 88–452, title VIII, § 822, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, related to demonstration projects to help young adult criminal offenders.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
2993(a)	See 4992(a)
2993(b)	See 4974(c)
2993(c)	Repealed
2993a	4973(a), 4992(a)
2993b	Repealed

§§ 2994 to 2994d. Repealed. Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

Section 2994, Pub. L. 88–452, title VIII, § 831, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 725, related to coordination with other programs.

Section 2994a, Pub. L. 88–452, title VIII, § 832, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 725, related to participation of older persons.

Section 2994b, Pub. L. 88–452, title VIII, § 833, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 90–623, § 5(b), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 91–177, title I, § 112(b), Dec. 30, 1969, 83 Stat. 832; Pub. L. 92–424, § 3(d)(3), Sept. 19, 1972, 86 Stat. 689, related to application of Federal law.

Section 2994c, Pub. L. 88–452, title VIII, § 834, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, related to special limitations.

Section 2994d, Pub. L. 88–452, title VIII, § 835, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, § 2(a), Sept. 19, 1972, 86 Stat. 688, related to duration of program.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
2994	5050
2994a	4957
2994b(a)	5055(a)
2994b(b)(1), (2)	5055(b)(1)–(3)
2994b(c)(1), (2)	5055(c)(1), (2)
2994c	5044
2994d	5053

SUBCHAPTER IX.—EVALUATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702b, 2706, 2707, 2941 of this title.

§ 2995. Program and project evaluation.

(a) Duty of Director; reassessment of priorities; annual report to Congress.

(1) The Director shall, directly or through grants or contracts, measure and evaluate the impact of all programs authorized by this chapter and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this section, the Director, in the case of research, demonstrations, and related activities carried out under subchapter I of this chapter, shall, after taking into consideration the views of State agencies and community action agencies designated pursuant to section 2790 of this title, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities in section 2712(a) of this title, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Director shall, within 12 months after January 4, 1975, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) General standards of evaluation.

Prior to obligating funds for the programs and projects covered by this chapter with respect to fiscal year 1976, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under any section of this chapter. Reports submitted pursuant to section 2948 of this title shall describe the actions taken as a result of these evaluations.

(c) Specificity of views.

In carrying out evaluations under this subchapter, the Director shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this chapter about such programs and projects, and shall consult, when appropriate, with State agencies and community action agencies designated pursuant to section 2790 of this title, in order to provide for jointly sponsored objective evaluation studies on a State or areawide basis.

(d) Publication of results; submission to Congress.

The Director shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) Evaluation results as United States property.

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this chapter shall become the property of the United States. (Pub. L. 88–452, title IX, § 901, as added Pub. L. 92–424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93–644, § 12, Jan. 4, 1975, 88 Stat. 2328.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93–644 redesignated subsec. (a) as (a)(1) and in subsec. (a)(1) as so redesignated substituted ", directly or through grants or contracts, measure and evaluate the impact of all programs authorized by this chapter and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including" for "provide for continuing evaluation of programs under this chapter and of programs authorized under related Acts, including evaluations that describe and measure, with appropriate means and to the extent feasible, the impact of such programs, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, and including" and "Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated" for "The Director may, for such purposes, contract or make other arrangements for independent evaluation of those programs or individual projects".

Subsec. (a)(2). Pub. L. 93–644 redesignated subsec. (c) as subsec. (a)(2) and in subsec. (a)(2) as so redesignated substituted provisions laying upon the Director, in the case of research, demonstrations, and related activities carried out under subchapter I of this chapter, the responsibility of reassessing the priorities to which such activities should be directed and reviewing such activities in terms of the purpose specified for such activities in section 2712(a) of this title to see whether and on what basis such activities should be continued, revised, or terminated for provisions which authorized the Director, in carrying out this subchapter, to require community action agencies to provide independent evaluations.

Subsec. (a)(3). Pub. L. 93–644 added subsec. (a)(3).

Subsec. (b). Pub. L. 93–644 substituted "Prior to obligating funds for the programs and projects covered by this chapter with respect to fiscal year 1976, the Director

shall develop and publish general standards for evaluation of program and project effectiveness" for "The Director shall to the extent feasible develop and publish standards for evaluation of program effectiveness" and "The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under any section of this chapter" for "He shall consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance authorized under any section of this chapter", and added provision that reports submitted pursuant to section 2948 of this title shall describe the actions taken as a result of these evaluations.

Subsec. (c). Pub. L. 93–644 added subsec. (c) consisting of provisions formerly contained in section 2995b of this title. Former subsec. (c) was redesignated subsec. (a)(2) and amended.

Subsec. (d). Pub. L. 93–644 added subsec. (d) consisting of provisions formerly contained in sections 2995c(a) and (c) of this title, and amended those provisions to substitute 90 days for 60 days as the period following the completion of evaluative research and evaluations when results and summaries must be published.

Subsec. (e). Pub. L. 93–644 added subsec. (e) consisting of provisions formerly contained in section 2995c(b) of this title.

§ 2995a. Cooperation and consultation with other Federal agencies.

(a) Such information and cooperation as the Director may deem necessary for purposes of the evaluations conducted under this subchapter shall be made available to him, upon request, by the agencies of the executive branch.

(b) In carrying out evaluations under this subchapter, the Director shall consult with the heads of other Federal agencies carrying out activities related to the subject matter of those evaluations. (Pub. L. 88–452, title IX, § 902, as added Pub. L. 92–424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93–644, § 12, Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions requiring agencies of the executive branch to make available to the Director such information and cooperation as the Director deems necessary for purposes of evaluations conducted under this subchapter and directing consultation by the Director with the heads of other Federal agencies carrying on activities related to the subject matter of evaluations for provisions directing federal agencies administering programs related to this chapter to cooperate with the Director in the discharge of his responsibility to plan and conduct evaluations of such poverty-related programs as he deems appropriate, to the fullest extent permitted by other applicable law and, and to provide the Director on a cooperative basis with such agency, with such statistical data, program reports, and other materials, as they collect and compile on program operations, beneficiaries, and effectiveness.

§ 2995b. Evaluation by other administering agencies.

The head of any agency administering a program authorized under this chapter may, with respect to such program, conduct evaluations and take other actions authorized under this subchapter to the same extent and in the same manner as the Director under this subchapter. Nothing in this section shall preclude the Director from conducting such evaluations or taking such actions otherwise authorized under this subchapter with respect to such programs. (Pub. L. 88–452, title IX, § 903, as added Pub. L. 92–424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93–644, § 12, Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93–644 substituted provisions authorizing the evaluation of programs by other agencies, formerly contained in section 2995d of this title, for provisions covering the consultation by the Director with State agencies and the collection of opinions of program participants about strengths and weaknesses of programs, now contained in section 2995(c) of this title.

§§ 2995c, 2995d. Omitted.

CODIFICATION

Sections, Pub. L. 88–452, title IX, §§ 904, 905, as added Pub. L. 92–424, § 27(a), Sept. 19, 1972, 86 Stat. 705, making provision for the publications of evaluation results and the evaluation of programs by other agencies, were omitted in the general reorganization and amendment of this subchapter by Pub. L. 93–644, § 12, Jan. 4, 1975, 88 Stat. 2327. See sections 2995(d), (e) and 2995b of this title.

SUBCHAPTER X.—LEGAL SERVICES CORPORATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2971e of this title.

§ 2996. Congressional findings and declaration of purpose.

The Congress finds and declares that—

(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice;

(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

(Pub. L. 88–452, title X, § 1001, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 378.)

SHORT TITLE

Section 1 of Pub. L. 93–355 provided: "That this Act [enacting this subchapter and section 2971e of this title, amending section 2809 of this title, and enacting provisions set out as notes under this section and sections 2809 and 2996b of this title] may be cited as the 'Legal Services Corporation Act of 1974'."

Section 1014 of Pub. L. 88–452, as added by section 2 of Pub. L. 93–355, provided that: "This title [this subchapter] may be cited as the 'Legal Services Corporation Act'."

§ 2996a. Definitions.

As used in this subchapter, the term—

(1) "Board" means the Board of Directors of the Legal Services Corporation;

(2) "Corporation" means the Legal Services Corporation established under this subchapter;

(3) "eligible client" means any person financially unable to afford legal assistance;

(4) "Governor" means the chief executive officer of a State;

(5) "legal assistance" means the provision of any legal services consistent with the purposes and provisions of this subchapter;

(6) "recipient" means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 2996e(a)(1) of this title;

(7) "staff attorney" means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this subchapter; and

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 88–452, title X, § 1002, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 378.)

§ 2996b. Establishment.

(a) There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

(b) The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

(c) The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of Title 26 and as an organization described in section 501(c)(3) of Title 26 which is exempt from taxation under section 501(a) of Title 26. If such treatments are conferred in accordance with the provisions of Title 26, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of Title 26 relevant to the conduct of organizations exempt from taxation. (Pub. L. 88–452, title X, § 1003, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 379.)

TRANSITION TO LEGAL SERVICES CORPORATION PROGRAM

Section 3(a)–(d)(1), (e) of Pub. L. 93–355 provided that:

"(a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act) [this subchapter], the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3) [2809(a)(3) of this title], 230 [2823 of this title], 232 [2825 of this title], or any other provision of the Economic Opportunity Act of 1964 [this chapter].

"(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964 [this chapter], shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

"(c) Collective-bargaining agreements in effect on the date of enactment of this Act [July 25, 1974], covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

"(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

"(A) to assist the Corporation in preparing to undertake, and in the initial undertaking of, its responsibilities under this title [this subchapter];

"(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

"(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 [this chapter] or successor authority; and

"(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 [this chapter] or successor authority.

Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act [July 25, 1974], he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

"(2) [Omitted. Omitted provisions directed the repeal of section 2809(a)(3) of this title. See 1974 Amendment note under section 2809 of this title.]

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section."

§ 2996c. Board of Directors.

(a) Establishment.

The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States.

(b) Term of office.

The term of office of each member of the Board shall be three years, except that five of the members

first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(c) Board members not deemed officers or employees of United States.

The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(d) Chairman.

The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

(e) Removal.

A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(f) State advisory councils.

Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this subchapter and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(g) Open meetings.

All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this subchapter shall be open to the public, and any minutes of such public meetings shall be available to the public, unless the membership of such bodies, by two-thirds vote of those eligible to vote, determines that an executive session should be held on a specific occasion.

(h) Quarterly meetings.

The Board shall meet at least four times during each calendar year. (Pub. L. 88–452, title X, § 1004, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 379.)

§ 2996d. Officers and employees.

(a) Appointment of president; outside compensation of officers prohibited; terms.

The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

(b) Power of president to appoint and remove employees; non-partisan appointments.

(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this subchapter.

(c) Conflict of interest.

No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

(d) Compensation.

Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of Title 5.

(e) Officers and employees not deemed officers and employees of Federal Government; Corporation not deemed a department, agency, or instrumentality of Federal Government; review of annual budget.

(1) Except as otherwise specifically provided in this subchapter, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

(2) Nothing in this subchapter shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

(f) Exceptions.

Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of Title 5: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

(g) Freedom of information.

The Corporation and its officers and employees shall be subject to the provisions of section 552 of Title 5 (relating to freedom of information). (Pub. L. 88–452, title X, § 1005, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 380.)

§ 2996e. Powers, duties, and limitations.

(a) Powers of nonprofit corporation; additional powers.

To the extent consistent with the provisions of this subchapter, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through non-governmental arrangements),

for the purpose of providing legal assistance to eligible clients under this subchapter, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this subchapter;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this subchapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly and not by grant or contract, the following activities relating to the delivery of legal assistance—

(A) research,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

(b) Disciplinary powers; interference with professional responsibilities of attorneys; bar membership; restrictions; languages other than English.

(1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this subchapter or the rules, regulations, and guidelines promulgated pursuant to this subchapter, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 2996j of this title.

(3) The Corporation shall not, under any provision of this subchapter, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this subchapter as "professional responsibilities") or abrogate as to attorneys in programs assisted under this subchapter the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this subchapter are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this subchapter unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this subchapter, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 2996f(a)(6) of this title. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 2996f(a)(5) of this title, which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 2996j of this title, for suspension of legal assistance supported under this subchapter, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 2996j of this title, the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this subchapter.

(c) Corporation itself not to participate in litigation on behalf of clients other than itself; influencing of legislation prohibited.

The Corporation shall not itself—

(1) participate in litigation on behalf of clients other than the Corporation; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d) Miscellaneous prohibitions.

(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(e) Political activities of Corporation employees.

(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation shall be deemed to be State or local employees for purposes of chapter 15 of Title 5.

(f) Harassment; malicious abuse of legal process.

If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation. (Pub. L. 88–452, title X, § 1006, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 381.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, and is classified to D.C. Code, § 29–1001 et seq.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996a of this title.

§ 2996f. Grants and contracts.

(a) Requisites.

With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this subchapter, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2) (A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this subchapter;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

(i) the liquid assets and income level of the client,

(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

(iii) the cost of living in the locality, and

(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination, which shall be a disqualifying factor, that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any

uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

and insure that staff attorneys refrain at any time during the period for which they receive compensation under this subchapter from the activities described in clauses (B) and (C) of this paragraph and from political activities of the type prohibited by section 1502(a) of Title 5, whether partisan or nonpartisan;

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this subchapter and give preference in filling such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this subchapter or predecessor authority under this chapter which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 2996j of this title; and

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association; and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

(b) Limitations on uses.

No funds made available by the Corporation under this subchapter, either by grant or contract, may be used—

(1) to provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the Corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(2) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(3) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(4) to provide legal assistance under this subchapter to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;

(5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or

formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation;

(7) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; or

(9) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States.

(c) Recipient organizations.

In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 2809(a)(3) of this title, which on July 25, 1974, has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this subchapter, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and which include at least one individual eligible to receive legal assistance under this subchapter. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) Program evaluation.

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this subchapter to insure that the provisions of this subchapter and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter are carried out.

(e) Corporation president authorized to make grants and enter into contracts.

The president of the Corporation is authorized to make grants and enter into contracts under this subchapter.

(f) Public notification.

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State bar association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. Notifications shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) Staff-attorney program study.

The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this chapter and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services. (Pub. L. 88–452, title X, § 1007, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 383.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to, in subsec. (b)(9), is Act June 24, 1948, as amended, which is set out as section 451 et seq. of the Appendix to Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996e of this title.

§ 2996g. Records and reports.

(a) Authority to require reports.

The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this subchapter regarding activities carried out pursuant to this subchapter.

(b) Authority to require recordkeeping; access to records.

The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Annual report to President and Congress.

The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress.

(d) Copies and retention of reports.

Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this subchapter shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upn payment of such reasonable fees as the Corporation may establish.

(e) Publication in Federal Register of rules, regulations, guidelines and instructions.

The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions. (Pub. L. 88–452, title X, § 1008, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 386.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996h of this title.

§ 2996h. Audits.

(a) Annual audit; availability of records; filing and inspection of report.

(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Corporation.

(b) Audit by General Accounting Office.

(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

(c) Annual financial audit of recipient persons or bodies.

(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this subchapter to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

(d) Attorney-client privilege.

Notwithstanding the provisions of this section or section 2996g of this title, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege. (Pub. L. 88–452, title X, § 1009, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 387.)

§ 2996i. Financing.

(a) Authorization of appropriations.

There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations shall be for not more than two fiscal years, and, if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts.

(b) Availability of funds.

Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds.

Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this subchapter, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this subchapter. (Pub. L. 88–452, title X, § 1010, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 388.)

§ 2996j. Special limitations.

The Corporation shall prescribe procedures to insure that—

(1) financial assistance under this subchapter shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

(Pub. L. 88–452, title X, § 1011, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 388.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2996e, 2996f of this title.

§ 2996k. Coordination.

The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this subchapter, to the extent not inconsistent with other applicable law. (Pub. L. 88–452, title X, § 1012, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 388.)

EX. ORD. NO. 11874. DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11874, July 25, 1975, 40 F.R. 31737, provided: By virtue of the authority vested in me by Section 1012 of the Economic Opportunity Act of 1964, as amended by the Legal Services Corporation Act of 1974 (88 Stat. 388, 42 U.S.C. 2996k) [this section], and Section 301 of Title 3 of the United States Code, and as President of the United States, the Director of the Office of Management and Budget is hereby designated and empowered to exercise the authority vested in the President by said Section 1012 of the Economic Opportunity Act of 1964, as amended [this section], to direct that appropriate support functions of the Federal Government may be made available to the Legal Services Corporation in carrying out its activities, to the extent not inconsistent with other applicable law. Such functions shall be provided under terms and conditions as may be agreed upon by the Legal Services Corporation and the Federal agencies involved.

GERALD R. FORD.

§ 2996*l*. Reservation of right to repeal, alter, or amend.

The right to repeal, alter, or amend this subchapter at any time is expressly reserved. (Pub. L. 88–452, title X, § 1013, as added Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 388.)

Chapter 35.—PROGRAMS FOR OLDER AMERICANS

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3003. Congressional declaration of additional objectives [New].

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(a) Establishment; membership; term; representation of interests; qualification.
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(b) Allotments to States; amount.
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3027. Payments of grants or contracts [New].
(a) Adjustments; advances or reimbursement; installments; development of State plans; continuation of Federal financial assistance.
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3041b. Payments; reservation from appropriations; amount of grant or contract: amendment; advances; reimbursement; installments [New.]
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3041e. Mortgage insurance for Multipurpose Senior Centers [New].
(a) Statement of purpose.
(b) Definitions.
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(a) State proportionate share formula.
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(b) Coordination of Older American Community Service Employment Program with other Federal programs; prohibition against use of appropriations under this chapter for other Federal programs.
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(a) National activities based on level of activities in fiscal year ending June 30, 1975: preference in awards, equitable distribution of aggregate activities; State allotments: allotment formula, allotment percentage; number of persons aged fifty-five or over; per capita income.
(b) Reallotments.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 sections 364, 1008, 1008a, 1208a.

SUBCHAPTER I.—DECLARATION OF OBJECTIVES AND DEFINITIONS

§ 3001. Congressional declaration of objectives.

The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

* * * * *

(8) Efficient community services, including access to low-cost transportation, which provide social assistance in a coordinated manner and which are readily available when needed.

* * * * *

(As amended Pub. L. 93–29, title I, § 102, May 3, 1973, 87 Stat. 30.)

AMENDMENTS

1973—Pub. L. 93–29 inserted in cl. (8) reference to access to low-cost transportation.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713, provided: "That this Act [which enacted chapter 76 and sections 3002(4)–(6), 3020a, 3024(d), 3028(a)(5)–(7), 3034(c), 3045f(d), and 3056 to 3056f of this title, amended sections 289k—5, 3002(1), 3012(a)(8), 3014(c), 3015(g), (h), 3022(1), 3023(a),(b), 3024(c)(2),(4), 3025, 3026(b), 3028(b), 3033, 3034(a), 3037, 3037a(b), 3041d(a), 3041f(b)(1), 3045b(c),(d), 3045d(a)(2),(5),(c), 3045e(a)(5),(8), 3045f, 3045g, 5011(a),(b), 5012(a)(1), and 5082(a),(b)(1) of this title and sections 1008a(b), 1208a(b), and 1341(d) of Title 20, repealed sections 3061 to 3067 of this title, enacted provisions set out as notes under section 5001 of this title and section 871 of Title 29, and amended provisions set out as a note under section 2809 of this title may be cited as the 'Older Americans Amendments of 1975'."

SHORT TITLE

Section 1 of Pub. L. 93–29 provided: "That this Act [which enacted chapter 35A of this title, subchs. III to V of this chapter, this section and sections 3012(a)(9)–(16), (b), 3013 to 3020, 3044(d), 3045(a)(5) of this title, and sections 351(a)(4), 351c(a)(3)(D), 361 to 364, 1008a, and 1208a of Title 20, amended sections 3001(8), 3011, 3012(4), 3044a, 3044b, 3044e, and 3045a to 3045f of this title, and sections 351c(a)(1)–(3), (b), 351d(a), 351e(a), (b)(1), 1211(a), 1504(a)(2), and 1505(a) of Title 20, repealed former subchs. III (sections 3021 to 3024a, and 3025 of this title), IV (sections 3031 and 3032 of this title), V (sections 3041 to 3043 of this title), and VIII (sections 3051 to 3055 of this title) of this chapter, and enacted provisions set out as notes under sections 2809, 3044b, and 3061 of this title and section 361 of Title 20] may be cited as the 'Older Americans Comprehensive Services Amendments of 1973'."

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 3002. Definitions.

For the purposes of this chapter—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

* * * * *

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4)[1] The term "Indian" means a person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which (A) is recog-

[1] Par. (4), set out second, enacted by Pub. L. 94–135, § 104(b). Another par. (4), set out first, originally enacted by Pub. L. 89–73, § 102.

nized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(6) The term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

(As amended Pub. L. 94–135, title I, §§ 104(b), 114(a), Nov. 28, 1975, 89 Stat. 714, 725.)

REFERENCES IN TEXT

Alaska Native Claims Settlement Act, referred to in par. (5), is classified to chapter 33 of Title 43, Public Lands. Definitions are contained in section 1602 of Title 43.

AMENDMENTS

1975—Par. (1). Pub. L. 94–135, § 114(a), substituted a period for the semicolon.

Pars. (4)–(6). Pub. L. 94–135, § 104(b), added pars. (4) to (6).

§ 3003. Congressional declaration of additional objectives.

The Congress finds that millions of older citizens in this Nation are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, in support of the objectives of this chapter, to—

(1) make available comprehensive programs which include a full range of health, education, and social services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.

(3) provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, community agencies, and State and local governments, with appropriate assistance from the Federal Government.

(Pub. L. 93–29, title I, § 101, May 3, 1973, 87 Stat. 30.)

REFERENCES IN TEXT

"This Act", referred to in the introductory text, means Pub. L. 93–29, classified generally to this chapter and chapter 35A of this title. For complete classification of Pub. L. 93–29 in the Code, see short title note set out under this section.

CODIFICATION

This section was enacted as part of the Older Americans Comprehensive Services Amendments of 1973 and not as part of the Older Americans Act of 1965, which comprises this chapter.

SUBCHAPTER II.—ADMINISTRATION ON AGING

§ 3011. Establishment of Administration; Commissioner on Aging.

(a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this chapter referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this chapter referred to as the "Commissioner"). Except for subchapter VI of this chapter and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973, the Administration shall be the principal agency for carrying out this chapter. In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate. (As amended Pub. L. 93–29, title II, § 201(a), May 3, 1973, 87 Stat. 30; Pub. L. 93–351, § 2(a), July 12, 1974, 88 Stat. 357.)

REFERENCES IN TEXT

Subchapter VI of this chapter, referred to in subsec. (a), was repealed by Pub. L. 93–113, title VI, section 604(a), Oct. 1, 1973, 87 Stat. 417. See section 5001 et seq. of this title.

Older Americans Comprehensive Services Amendments of 1973, referred to in subsec. (a), means Pub. L. 93–29, classified generally to this chapter and chapter 35A of this title. For complete classification of Pub. L. 93–29 in the Code, see short title note set out under section 3003 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–351 struck out provisions which had authorized the Secretary of Health, Education, and Welfare, under certain conditions, to approve a delegation of the functions of the Commissioner on Aging to officers not directly responsible to the Commissioner.

1973—Subsec. (a). Pub. L. 93–29 added subsec. (a). Former provision established the Administration on Aging in the Department of Health, Education, and Welfare.

Subsec. (b). Pub. L. 93–29 deleted provision respecting the direction of the Administration by a Commissioner on Aging, now incorporated in subsec. (a) of this section.

MODIFICATION OF DELEGATION OF FUNCTIONS OF COMMISSIONER ON AGING IN EFFECT ON JULY 12, 1974.

Section 2(b) of Pub. L. 93–351 provided that: "Any delegation of the functions of the Commissioner on Aging in effect on the date of enactment of this Act [July 12, 1974], issued pursuant to section 201(a) of such Act [subsec. (a) of this section], shall be modified by the Commissioner to comply with the provisions of the amendment made by this section [amending subsec. (a) of this section]."

§ 3012. Functions of Administration; encouragement by Commissioner of program and activity participation by voluntary social services groups.

(a) It shall be the duty and function of the Administration to—

* * * * *

(4) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment of and carry out programs designed

to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services;

* * * * *

(7) gather statistics in the field of aging which other Federal agencies are not collecting;

(8) stimulate more effective use of existing resources and available services for the aged and aging;

(9) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this chapter;

(10) provide for the coordination of Federal programs and activities related to such purposes;

(11) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and nonprofit private organizations of programs for older persons, with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such persons;

(12) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older persons as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this chapter;

(13) develop and operate programs providing services and opportunities as authorized by this chapter which are not otherwise provided by existing programs for older persons;

(14) carry on a continuing evaluation of the programs and activities related to the purposes of this chapter, with particular attention to the impact of medicare and medicaid, the Age Discrimination Act of 1967, and the programs of the National Housing Act relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

(15) provide information and assistance to private nonprofit organizations for the establishment and operation by them of programs and activities related to the purposes of this chapter; and

(16) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this chapter, and conduct and provide for the conducting of such training.

(b) In executing his duties and functions under this chapter and carrying out the programs and activities provided for by this chapter, the Commissioner, in consultation with the Director of Action, shall take all possible steps to encourage and permit voluntary groups active in social services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways. (As amended Pub. L. 93–29, title II, § 201(b), May 3, 1973, 87 Stat. 31; Pub. L. 94–135, title I, § 114(c), Nov. 28, 1975, 89 Stat. 725.)

REFERENCES IN TEXT

Age Discrimination Act of 1967, referred to in subsec. (a)(14), is classified to chapter 14 (section 621 et seq.) of Title 29, Labor.

National Housing Act, referred to in subsec. (a)(14), is classified to chapter 13 (section 1701 et seq.) of Title 12, Banks and Banking.

AMENDMENTS

1975—Subsec. (a)(8). Pub. L. 94–135 struck out "and" following "aged and aging;".

1973—Subsec. (a). Pub. L. 93–29, § 201(b)(1)–(3), in par. (4), substituted "research" for "research and demonstration programs" and made it the function of the Administration to assist in the establishment of any carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services; added pars. (9) to (16); and designated existing provisions as subsec. (a), respectively.

Subsec. (b). Pub. L. 93–29, § 201(b)(3), added subsec. (b).

§ 3013. Federal agency cooperation.

Federal agencies proposing to establish programs substantially related to the purposes of this chapter shall consult with the Administration on Aging prior to the establishment of such services, and Federal agencies administering such programs shall cooperate with the Administration on Aging in carrying out such services. (Pub. L. 89–73, title II, § 203, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 32.)

§ 3014. National Information and Resource Clearing House for the Aging.

(a) Establishment and operation by Commissioner; functions.

The Commissioner is authorized and directed to establish and operate a National Information and Resource Clearing House for the Aging which shall—

(1) collect, analyze, prepare, and disseminate information related to the needs and interests of older persons;

(2) obtain information concerning older persons from public and private agencies and other organizations serving the needs and interests of older persons and furnish, upon request, information to such agencies and organizations, including information developed by Federal, State, and local public agenciets with respect to programs of such agencies designed to serve the needs and interests of older persons;

(3) encourage the establishment of State and local information centers and provide technical assistance to such centers, including sources established under section 3024(c)(3) and section 3025(a)(7) of this title, to assist older persons to have ready access to information; and

(4) carry out a special program for the collection and dissemination of information relevant to consumer interests of older persons in order that such older persons may more readily obtain information concerning goods and services needed by them.

(b) Coordination by Commissioner of Federal agency informational activities relevant to older persons; Clearing House as instrumentality for carrying out functions of Commissioner.

The Commissioner shall take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older persons. To the extent practicable, the Commissioner shall carry out his functions under this subsection through the National Information and Resource Clearing House for the Aging.

(c) Authorization of appropriations.

There are authorized to be appropriated to carry out the purposes of this section during the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978, such sums as may be necessary. (Pub. L. 89–73, title II, § 204, as added Pub. L. 93–29, title II, § 201 (c), May 3, 1973, 87 Stat. 32, and amended Pub. L. 94–135, title I, § 112(a), Nov. 28, 1975, 89 Stat. 719.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3015. Federal Council on the Aging.

(a) Establishment; membership; term; representation of interests; qualification.

There is established a Federal Council on the Aging to be composed of fifteen members appointed by the President with the advice and consent of the Senate for terms of three years without regard to the provisions of Title 5. Members shall be appointed so as to be representative of older Americans, national organizations with an interest in aging, business, labor, and the general public. At least five of the members shall themselves be older persons.

(b) Initial appointments; vacancies; compensation and travel expenses.

(1) Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS–18 in section 5332 of Title 5, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently.

(c) Chairman; meetings; ex officio members.

The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary and the Commissioner on Aging shall be ex officio members of the Council.

(d) Duties of Federal Council on the Aging.

The Council shall—

(1) advise and assist the President on matters relating to the special needs of older Americans;

(2) assist the Commissioner in making the appraisal of needs required by section 3032 of this title;

(3) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older Americans; and

(4) serve as a spokesman on behalf of older Americans by making recommendations to the President, to the Secretary, the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

(5) inform the public about the problems and needs of the aging, in consultation with the National Information and Resource Clearing House for the Aging, by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

(6) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

(e) Staff, information, and other assistance.

The Secretary and the Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

(f) Reports to President; transmittal to Congress.

Beginning with the year 1974 the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

(g) Study of interrelationships of benefit programs for elderly operated by government agencies; report to Congress.

The Council shall undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government

agencies. Following the completion of this study, but no later than January 1, 1976, the President shall submit to Congress recommendations for bringing about greater uniformity of eligibility standards, and for eliminating the negative impact that one program's standards may have on another.

(h) Study of impact of taxes on elderly; report to Congress and the States.

The Council shall undertake a study of the combined impact of all taxes on the elderly—including but not limited to income, property, sales, social security taxes. Upon completion of this study, but no later than January 1, 1976, the President shall submit to Congress, and to the Governor and legislatures of the States, the results thereof and such recommendations as he deems necessary.

(i) Study of formulae for area planning and social service program allotments; submission to executive and legislative officials.

The Council shall undertake a study or studies concerning the effects of the formulae specified in section 3023 of this title for allotment among the States of sums appropriated for area planning and social service programs authorized under subchapter III of this chapter. Upon completion of this study, but no later than January 1, 1975, the results of such study, together with recommendations for such changes, if any, in such formulae as may be determined to be desirable, and the justification for any changes recommended, shall be submitted to the Commissioner, the Secretary of Health, Education, and Welfare, the Committee on Labor and Public Welfare of the Senate, and the Committee on Education and Labor of the House of Representatives. (Pub. L. 89–73, title II, §205, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 33, and amended Pub. L. 94–135, title I, § 101, Nov. 28, 1975, 89 Stat. 713.)

AMENDMENTS

1975—Subsecs. (g), (h). Pub. L. 94–135 substituted "January 1, 1976" for "eighteen months after May 3, 1973" in subsecs. (g) and (h).

§ 3016. Administration.

(a) Authority of Commissioner.

In carrying out the purposes of this chapter, the Commissioner is authorized to:

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction;

(3) conduct research and, demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter; and

(5) provide staff and other technical assistance to the Federal Council on the Aging.

(b) Utilization of services and facilities of Federal and other public or nonprofit agencies; advance or reimbursement payments for such use.

In administering his functions under this chapter, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Authorization of appropriations.

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary. (Pub. L. 89–73, title II, § 206, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 34.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in Pub. L. 89–73, title VIII, § 802, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VIII, § 702, Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 802, Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88 (formerly classified to section 3052 of this title) prior to repeal of such section by Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3017. Evaluation of programs.

(a) Authority of Secretary; scope of evaluation; persons conducting evaluation.

The Secretary shall measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) General standards.

The Secretary may not make grants or contracts under section 3028 of this title or subchapter IV of this chapter until he has developed and published general standards to be used by him in evaluating the programs and projects assisted under such section or subchapter. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 3018 of this title.

(c) Opinion of program and project participants.

In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(d) Annual summaries of evaluation; availability of contents.

The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to Congress and the public.

(e) Federal property.

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Availability to Secretary of information from executive agencies.

Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(g) Funds.

The Secretary is authorized to use such sums as may be required, but not to exceed 1 per centum of the funds appropriated under this chapter, or $1,000,000 whichever is greater, to conduct program and project evaluations (directly, or by grants or contracts) as required by this subchapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly. (Pub. L. 89–73, title II, § 207, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (g) of this section were contained in Pub. L. 89–73, title VIII, § 804, formerly title VII, § 704, as added Pub. L. 91–69, § 12, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88 (formerly classified to section 3054 of this title) prior to repeal of such section by Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3018. Annual report to Congress.

Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this chapter. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year. (Pub. L. 89–73, title II, § 208, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3017, 3032 of this title.

§ 3019. Joint funding of projects.

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. (Pub. L. 89–73, title II, § 209, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title VIII, § 805, formerly title VII, § 705, as added Pub. L. 91–69, § 13, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88 (formerly classified to section 3055 of this title) prior to repeal of such section by Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3020. Advance funding.

(a) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year. (Pub. L. 89–73, title II, § 210, as added Pub. L. 93–29, title II, § 201(c), May 3, 1973, 87 Stat. 36.)

§ 3020a. Application of other laws.

The provisions and requirements of the Act of December 5, 1974 (Public Law 93–510; 88 Stat. 1604) shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter. (Pub. L. 89–73, title II, § 211, as added Pub. L. 94–135, title I, § 102, Nov. 28, 1975, 89 Stat. 713.)

REFERENCES IN TEXT

Pub. L. 93–510, referred to in text, means the "Joint Funding Simplification Act of 1974," which is classified to section 4251 et seq. of this title.

SUBCHAPTER III.—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1438, 3015, 3037a, 3041a, 3045d of this title; title 12 section 1701q.

§ 3021. Statement of purpose.

It is the purpose of this subchapter to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services and, where necessary, to reorganize or reassign functions, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

(2) remove individual and social barriers to economic and personal independence for older persons.

(Pub. L. 89–73, title III, § 301, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36.)

CODIFICATION

A prior section 3021, Pub. L. 89–73, title III, § 301, July 14, 1965, 79 Stat. 220; Pub. L. 90–42, § 2(a), July 1, 1967, 81 Stat. 106; Pub. L. 91–69, § 2(a), Sept. 17, 1969, 83 Stat. 108, which related to a description of activities and authorized appropriations for fiscal years ending June 30, 1966, through 1972, was repealed by Pub. L.

93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered generally in this chapter.

§ 3022. Definitions.

For purposes of this subchapter—

(1) The term "social services" means any of the following services which meet such standards as the Commissioner may prescribe:

(A) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

(B) transportation services where necessary to facilitate access to social services;

(C) services designed to encourage and assist older persons to use the facilities and services available to them;

(D) services designed to assists older persons to obtain adequate housing;

(E) services designed to assist older persons in avoiding institutionalization, including preinstitutionalization evaluation and screening, and home health services;

(F) services designed to provide legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older persons;

(G) services designed to enable older persons to attain and maintain physical and mental well being through programs of regular physical activity and exercise; or

(H) any other services;

if such services are necessary for the general welfare of older persons.

(2) The term "unit of general purpose local government" means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

(3) The term "comprehensive and coordinated system" means a system for providing all necessary social services in a manner designed to—

(A) facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of social services in meeting the needs of older persons; and

(C) use available resources efficiently and with a minimum of duplication.

(Pub. L. 89–73, title III, § 302, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and amended Pub. L. 94–135, title I, § 103, Nov. 28, 1975, 89 Stat. 713.)

CODIFICATION

A prior section 3022, Pub. L. 89–73, title III, § 302, July 14, 1965, 79 Stat. 221; Pub. L. 90–42, §§ 2(b), 5(g), July 1, 1967; 81 Stat. 107, 108, Pub. L. 91–69, §§ 3(a), 4(d), 6, 10(b), Sept. 17, 1969, 83 Stat. 108, 110, 114, which related to allotments to States, providing in subsec. (a) amount of allotments, subsec. (b) reallotments, and subsec. (c) availability for grants, percentage payments, and duration of project support, was repealed by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by sections 3023 and 3026 of this title.

AMENDMENTS

1975—Par. (1)(E). Pub. L. 94–135, § 103(1), struck out "or" at end of text.

Par. (1) (F), (G). Pub. L. 94–135, § 103(2), added subpars. (F) and (G). Former subpar. (F) redesignated (H).

Par. (1)(H). Pub. L. 94–135, § 103(2), redesignated former subpar. (F) as (H).

§ 3023. Area planning and social service programs.

(a) Authorization of appropriations; use of funds for certain purposes.

There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, $103,600,000 for the fiscal year ending June 30, 1974, $130,000,000 for the fiscal year ending June 30, 1975, $180,000,000 for the fiscal year ending June 30, 1976, $57,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, $231,000,000 for the fiscal year ending September 30, 1977, and $287,200,000 for the fiscal year ending September 30, 1978, to enable the Commissioner to make grants to each State with a State plan approved under section 3025 of this title (except as provided in section 3027(a) of this title) for paying part of the cost (pursuant to subsection (e) of this section and section 3026 of this title) of—

(1) the administration of area plans by area agencies on aging designated pursuant to section 3024(a)(2)(A) of this title, including the preparation of area plans on aging consistent with section 3024(c) of this title and the evaluation of activities carried out under such plans;

(2) the development of comprehensive and coordinated systems for the delivery of social services; and

(3) activities carried out pursuant to section 3026 of this title.

(b) Allotments to States; amount.

(1) From the sums appropriated for the fiscal year ending June 30, 1973, under subsection (a) of this section, (A) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of such sum, (B) each other State shall be allotted an amount equal to one-half of 1 per centum of such sum, and (C) from the remainder of the sum so appropriated, each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged sixty or over in such State bears to the population aged sixty or over in all States.

(2) Subject to the provisions of paragraph (3), from the sums appropriated for the fiscal year ending June 30, 1974, for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal years ending September 30, 1977, and 1978, each State shall be allotted an amount which bears the same ratio to such sums as the population aged sixty or over in such States bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than

one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (C) no State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (A) of this paragraph only, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3)(A) In any State in which the Commissioner determines (after having taken into account the amount of funds available to the State agency or to an appropriate area agency on aging to carry out the purposes of this subchapter) that the members of an Indian tribe are not receiving benefits under this subchapter that are equivalent to benefits provided to other older persons in the State or appropriate area, and if he further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, he shall reserve from sums that would otherwise be allotted to such State under paragraph (2) not less than 100 per centum nor more than 150 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all Indians aged sixty or over for whom a determination under this paragraph has been made bears to the population of all persons aged sixty or over in such State.

(B) The sums reserved by the Commissioner on the basis of his determination under this paragraph shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this subchapter.

(C) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Commissioner a plan for such fiscal year which meets such criteria as the Commissioner may prescribe by regulation and which meets criteria established by section 3025(a) of this title, to the extent the Commissioner determines such criteria to be appropriate.

(D) Recipients of grants under this paragraph may retain for administrative purposes an amount equal to the amount available for the cost of the administration of area plans under subsection (e)(1) of this section.

(4) The number of persons aged sixty or over in any State and in all States, and the number of Indians aged sixty or over on, or in proximity to, any Federal or State reservation or rancheria shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

(c) Availability of unexpended amounts to other States.

Whenever the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for the purposes of this subchapter, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

(d) Fiscal year availability of allotment.

The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year.

(e) Allotment for administrative costs and social services costs.

From a State's allotment under this section for a fiscal year—

(1) such amount as the State's agency determines, but not more than 15 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum of the cost of administration of area plans; and

(2) such amount as the State agency determines, but (beginning with the fiscal year ending June 30, 1975) not more than 20 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum, of the cost of social services which are not provided as a part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

The remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 90 per centum of the costs of social services provided in the State as a part of the comprehensive and coordinated systems in planning and service areas for which there is an area plan approved by the State agency. (Pub. L. 89–73, title III, § 303, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 37, and amended Pub. L. 94–135, title I, §§ 104(a), (c), (d), 112(b), 114(d), Nov. 28, 1975, 89 Stat. 714, 715, 719, 725.)

CODIFICATION

A prior section 3023, Pub. L. 89–73, title III, § 303, July 14, 1965, 79 Stat. 222; Pub. L. 91–69, §§ 3(b), 4(a), Sept. 17, 1969, 83 Stat. 108, which related to state plans, providing in: subsec. (a) for approval by Secretary, contents, notice and hearing prior to disapproval; subsec. (b) noncompliance and cancellation of payments; and subsec. (c) appeals, petitions, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action, was repealed by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3025 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135, § 112(b)(1), authorized appropriation of $180,000,000 for fiscal year ending June 30, 1976, $57,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $231,000,000 and $287,200,000 for fiscal years ending Sept. 30, 1977, and 1978, respectively.

Subsec. (b)(1). Pub. L. 94–135, § 114(d), struck out "authorized to be" following introductory text "From the sums".

Subsec. (b)(2). Pub. L. 94–135, §§ 104(c), 112(b)(2), substituted "Subject to the provisions of paragraph (3), from" for "From" and made allotments to the States from sums appropriated for fiscal year ending June 30, 1976,

period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b)(3). Pub. L. 94–135, § 104(a), added par. (3) and redesignated former par (3) as (4).

Subsec. (b)(4). Pub. L. 94–135, § 104(a), (d), redesignated former par. (3) as (4) and inserted ", and the number of Indians aged sixty or over on, or in proximity to, any Federal or State reservation or rancheria" following "States".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3015, 3024, 3025, 3026, 3027, 3029 of this title.

§ 3024. Organization.

(a) State organization.

In order for a State to be eligible to participate in the programs of grants to States from allotments under section 3023 and section 3026 of this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency (hereinafter in this subchapter referred to as "the State agency") to: (A) develop the State plan to be submitted to the Commissioner for approval under section 3025 of this title, (B) administer the State plan within such State, (C) be primarily responsible for the coordination of all State activities related to the purposes of this chapter, (D) review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance related to meeting the needs of older persons; and (E) divide the entire State into distinct areas (hereinafter in this subchapter referred to as "planning and service areas"), in accordance with regulations of the Commissioner, after considering the geographical distribution of individuals aged sixty and older in the State, the incidence of the need for social services (including the numbers of older persons with low incomes residing in such areas), the distribution of resources available to provide such services, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors: *Provided*, That any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more or which contains 15 per centum or more of the State's population aged sixty or over shall be designated as a planning and service area; except that the State may designate as a planning and service area, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this subchapter, the State may include in any planning and service area designated pursuant to this provision such additional areas adjacent to the unit of general purpose local government or region so designated as the State determines to be necessary for, and will enhance, the effective administration of the programs authorized by this subchapter, and

(2) the State agency designated pursuant to paragraph (1) shall—

(A) determine for which planning and service areas an area plan will be developed, in accordance with subsection (c) of this section, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or nonprofit private agency or organization as the area agency on aging for such area; and

(B) provide assurances, satisfactory to the Commissioner that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services provided under such plan.

(b) Area organization.

An area agency on aging designated under subsection (a) of this section must be—

(1) an established office of aging which is operating within a planning and service area designated pursuant to subsection (a) of this section, or

(2) any office or agency of a unit of general purpose local government, which is designated for this purpose by the chief elected official or officials of such unit, or

(3) any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose, or

(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services within such planning and service area,

and must provide assurance, found adequate by the State agency, that it will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area. In designating an area agency on aging, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(c) Area plans.

In order to be approved by the State agency, an area plan for a planning and service area shall be developed by the area agency on aging designated with respect to such area under subsection (a) of this section and shall—

(1) provide for the establishment of a comprehensive and coordinated system for the delivery of social services within the planning and service area covered by the plan, including determining the need for social services in such area (taking into consideration, among other things, the numbers of older persons with low incomes residing in such area), evaluating the effectiveness of the use

of resources in meeting such need, and entering into agreements with providers of social services in such area, for the provision of such services to meet such need;

(2) in accordance with criteria established by the Commissioner by regulation relating to priorities, and consistent with the provisions of the State plan relating to the services required to be provided under section 3025(a)(10) of this title, provide for the initiation, expansion, or improvement of social services in the planning and service area covered by the area plan;

(3) provide for the establishment or maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably convenient access to such sources. For purposes of this section and section 3025(a)(7) of this title, an information and referral source is a location where the State or other public or private agency or organization (A) maintains current information with respect to the opportunities and services available to older persons, and develops current lists of older persons in need of services and opportunities, and (B) employs a specially trained staff to inform older persons of the opportunities and services which are available, and assists such persons to take advantage of such opportunities and services; and

(4) provide that the area agency on aging will—

(A) conduct periodic evaluations of activities carried out pursuant to the area plan;

(B) render appropriate technical assistance to providers of social services in the planning and service area covered by the area plan;

(C) take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

(D) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older persons to aid or assist, on a voluntary basis, in the delivery of such services to children; and

(E) establish an advisory council, consisting of representatives of the target population and the general public, to advise the area agency on all matters relating to the administration of the plan and operations conducted thereunder.

(d) Transportation services; funds.

(1) Subject to regulations prescribed by the Secretary of Health, Education, and Welfare, an area agency on aging designated under subsection (a) of this section or, in areas of a State where no such agency has been designated, the State agency, is authorized to enter into agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles VI, XIX, and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of persons receiving benefits under such Acts and older persons participating in programs authorized by this subchapter and subchapter VII of this chapter.

(2) Pursuant to an agreement entered into under paragraph (1), funds appropriated under this subchapter and subchapter VII of this chapter may be used to purchase transportation services for older persons and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles VI, XIX, and XX of the Social Security Act. (Pub. L. 89–73, title III, § 304, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 38, and amended Pub. L. 94–135, title I, §§ 105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716.)

REFERENCES IN TEXT

Rehabilitation Act of 1973, referred to in subsec. (d), is classified to chapter 16 (section 701 et seq.) of Title 29, Labor.

Titles VI, XIX, and XX of the Social Security Act, referred to in subsec. (d), are classified to sections 801 et seq., 1396 et seq., and 1397 et seq. of this title.

CODIFICATION

A prior section 3024, Pub. L. 89–73, title III, § 304, July 14, 1965, 79 Stat. 223; Pub. L. 90–42, § 3, July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 4(b), Sept. 17, 1969, 83 Stat. 108, which related to planning, coordination, and evaluation and administration of State plans, providing in: subsec. (a) authorization of appropriations, amount of payment, and availability of unexpended funds; subsec. (b) amount of allotment, determination of additional amount, adjustments, minimum amount, and availability of unexpended amount; subsec. (c) reallotment to other States; and subsec. (d) minimum State expenditure of funds, was repealed by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by sections 3023 and 3026 of this title.

A prior section 3024a, Pub. L. 89–73, title III, § 305, as added Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110, which related to areawide model projects, grants to or contracts with State agencies, amount, purposes of projects, and authorization of appropriations, was repealed by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3028 of this title.

AMENDMENTS

1975—Subsec. (c)(2). Pub. L. 94–135, § 106(c), inserted "and consistent with the provisions of the State plan relating to the services required to be provided under section 3025(a)(10) of this title," following "priorities,".

Subsec. (c)(4)(C)–F. Pub. L. 94–135, § 105(a), struck out subpar. (C) area plan requirement that the area agency on aging will, where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this subchapter may be used to provide legal services to older persons in the planning and service area carried out through federally assisted programs or other public or non profit agencies, now covered in sections 3022(1)(F) and 3025(b) of this title, and redesignated former subparas. (D) through (F) as (C) through (E), respectively.

Subsec. (d). Pub. L. 94–135, § 105(b), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3014, 3023, 3025, 3026, 3033, 3034, 3045d, 3056a, 5001, 5012 of this title.

§ 3025. State plans.

(a) Criteria for eligibility; contents.

In order for a State to be eligible for grants for a fiscal year from its allotments under section 3023 and section 3026, except as provided in section 3027 (a) of this title, it shall submit to the Commissioner a State plan for such year which meets such criteria as the Commissioner may prescribe by regulation and which—

(1) provides that the State agency will evaluate the need for social services within the State and determine the extent to which existing public or private programs meet such need;

(2) provides for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of an individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan;

(3) provides that the State agency will make such reports, in such form, and containing such information, as the Commissioner may from time to time require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) provides that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

(5) establishes objectives, consistent with the purposes of this subchapter, toward which activities under the plan will be directed, identifies obstacles to the attainment of those objectives, and indicates how it proposes to overcome those obstacles;

(6) provides that each area agency on aging designated pursuant to section 3024(a)(2)(A) of this title will develop and submit to the State agency for approval an area plan which complies with section 3024(c) of this title;

(7) provides for establishing or maintaining information and referral sources in sufficient numbers to assure that all older persons in the State who are not furnished adequate information and referral sources under section 3024(c)(3) of this title will have reasonably convenient access to such sources;

(8) provides that no social service will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such service by the State agency or an area agency on aging is necessary to assure an adequate supply of such service;

(9) provides that subject to the requirements of merit employment systems of State and local governments, preference shall be given to persons aged sixty or over for any staff position (full time or part time) in State and area agencies for which such persons qualify; and

(10) provides assurances in such form as the Commissioner shall prescribe that of the funds alloted[1] to the State under section 3023(b) of this title in any fiscal year to carry out the State plan, not less than 50 per centum of the amount by which such allotment exceeds the allotment made for the same purpose in the fiscal year ending June 30, 1975, shall be used for the purposes set forth in subsection (b) of this section, except with respect to any State which provides assurances found satisfactory by the Commissioner that at least 33⅓ per centum of the total amount allotted to the State under section 3023(b) of this title to carry out the State plan in any fiscal year shall be used for the purposes set forth in subsection (b) of this section, but in no case shall less than 20 per centum of the funds allotted to any State under section 3023(b) of this title to carry out the State plan in any fiscal year beginning after September 30, 1976, be used for the purposes set forth in subsection (b) of this section.

(b) National priority services.

Every State plan shall provide for the establishment or maintenance of programs (including related training) for the provision of some or all of the following services designed to assist older persons in leading independent lives and avoiding unnecessary institutionalization:

(1) Transportation services.

(2) Home services, including homemaker services, home health services, shopping services, escort services, reader services, letter writing services, and other services designed to assist such persons to continue living independently in a home environment.

(3) Legal and other counseling services and assistance programs, including tax counseling and assistance and financial counseling, for older persons.

(4) Residential repair and renovation programs designed to enable older persons to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of elderly persons suffering from physical disabilities.

(c) Approval by Commissioner.

The Commissioner shall approve any State plan which he finds fulfills the requirements of subsection (a) of this section.

(d) Notice and hearing prior to disapproval.

The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 3024 of this title, without first affording the State reasonable notice and opportunity for a hearing.

(e) Ineligibility and noncompliance; cancellation of payments; disbursements of withheld funds to agencies with approved plans; matching funds.

Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, finds that—

(1) the State is not eligible under section 3024 of this title,

(2) the State plan has been so changed that it no longer complies with the provisions of subsection (a) of this section, or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a) of this section,

the Commissioner shall notify such State agency that no further payments from its allotments under section 3023 and section 3026 of this title will be made to the State (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 3023 and section 3026 of this title (or payments shall be limited to projects under or portions of the State plan

[1] So in original.

not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 3024 and section 3026 of this title. Any such payment or payments shall be matched in the proportions specified in sections 3023 and 3026 of this title.

(f) Appeals; petitions; records; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action.

A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action. (Pub. L. 89–73, title III, § 305, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 41, and amended Pub. L. 94–135, title I, §§ 106(a), (b), 114(e), Nov. 28, 1975, 89 Stat. 715, 725.)

CODIFICATION

A prior section 3025, Pub. L. 89–73, title III, § 306, formerly § 305, July 14, 1965, 79 Stat. 224, renumbered Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110, which related to payments of grants for State and community programs on aging, adjustments, advances or reimbursement, and installments, was repealed by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3027(a) of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, § 303, July 14, 1965, 79 Stat. 222; Pub. L. 91–69, §§ 3(b), 4(a) Sept. 17, 1969, 83 Stat. 108, formerly classified to section 3023 of this title, prior to repeal of such section by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Subsec. (a)(10). Pub. L. 94–135, § 106(a), added par (10).

Subsec. (b). Pub. L. 94–135, § 106(b), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsecs. (c) to (e). Pub. L. 94–135, § 106(b), redesignated former subsecs. (b) to (d) as (c) to (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94–135, §§ 106(b), 114(e), redesignated former subsec. (e) as (f) and substituted in last sentence "Commissioner's" for "Commissioners' ".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3014, 3023, 3024, 3026, 3027, 3029, 3045d of this title.

§ 3026. Planning, coordination, evaluation, and administration of State plans.

(a) Grants; percentage limitation; description of activities; duplication of payments.

(1) Amounts appropriated as authorized by section 3023 of this title may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 per centum, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social service.

(2) Any sums allotted to a State under this section for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by such State to supplement the amount available under section 3023(e)(1) of this title to cover part of the cost of the administration of area plans.

(3) Any State which has designated a single planning and service area pursuant to section 3024(a)(1)(E) of this title covering all, or substantially all, of the older persons in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this section or out of sums made available for the administration of area plans pursuant to section 3023(e)(1) of this title, but shall not pay such costs out of sums allotted under both such sections.

(b) Allotments to States; amount.

(1) From the sums appropriated for any fiscal year under section 3023 of this title for carrying out the purposes of this section, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $200,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 per centum of the sum appropriated for

the fiscal year for which the determination is made, or $62,500, whichever is greater. For the purpose of the exception contained in clause (A) of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2)(A) Any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) of this section may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need, that—

(i) such State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this subchapter and by subchapter VII of this chapter unless such additional amounts are made available by the Commissioner;

(ii) such State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 3025 of this title in the administration of its State plan in accordance with subsection (a) of this section; and

(iii) the State agency and area agencies of such State designated under section 3025 of this title are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this chapter.

(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 per centum of the sum of the amounts allotted to such State to carry out the State plan under section 3023(b) of this title and section 3045b(a) of this title for such fiscal year.

(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by such State under this paragraph will be used to hire any person to fill a job opening created by the action of such State in laying off or terminating the employment of any regular employee not supported under this chapter in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

(3) Each State shall be entitled to an allotment under this section for any fiscal year in an amount which is not less than the amount of the allotment to which such State was entitled under paragraph (1) for the fiscal year ending June 30, 1975.

(4) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) Reallotments to other States.

The amounts of any State's allotment under subsection (b) of this section for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (b) of this section for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) of this section for that year.

(d) Fiscal year availability of allotment.

The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year. (Pub. L. 89–73, title III, § 306, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 43, and amended Pub. L. 94–135, title I, § 107, Nov. 28, 1975, 89 Stat. 716.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, § 304, July 14, 1965, 79 Stat. 223; Pub. L. 90–42, § 3, July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 4(b), Sept. 17, 1969, 83 Stat. 108, formerly classified to section 3024 of this title, prior to repeal of such section by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Subsec. (b)(1)(A), (B). Pub. L. 94–135, § 107(a), substituted "$200,000" for "$160,000" in cl. (A) and "$62,500" for "$50,000" in cl. (B).

Subsec. (b)(2). Pub. L. 94–135, § 107(b), added par. (2). Former par. (2) redesignated (4).

Subsec. (b)(3). Pub. L. 94–135, § 107(b), added par. (3).

Subsec. (b)(4). Pub. L. 94–135, § 107(b), redesignated former par. (2) as (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3023, 3024, 3025, 3027, 3045d of this title.

§ 3027. Payments of grants or contracts.

(a) Adjustments; advances or reimbursement; installments; development of State plans; continuation of Federal financial assistance.

Payments of grants or contracts under this subchapter may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available pursuant to section 3026 of this title the Commissioner may pay to a State which does not have a State plan approved under section 3025 of this title such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan. From a State's allotment for

a fiscal year which is available pursuant to section 3023 of this title, the Commissioner may, during the period ending one year after May 3, 1973, pay, in accordance with such regulations as he may prescribe, to a State which does not have a State plan approved under section 3025 of this title, such amounts as he deems appropriate for the purpose of continuing Federal financial assistance for activities assisted under the plan of such State approved under section 3023 of this title prior to May 3, 1973.

(b) Matching funds; percentage limitation.

Beginning with the fiscal year ending June 30, 1975, not less than 25 per centum of the non-Federal share (pursuant to section 3023(e) of this title) of the total expenditures under the State plan shall be met from funds from State or local public sources.

(c) Reduction of State's allotment for area planning and social service programs.

A State's allotment under section 3023 of this title for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 3025 of this title are less than its expenditures from such sources for the preceding fiscal year. (Pub. L. 89–73, title III, § 307, as added Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 44.)

PRIOR PROVISIONS

Provisions similar in part to those comprising subsec. (a) of this section were contained in Pub. L. 89–73, title III, § 306, formerly § 305, July 14, 1965, 79 Stat. 224, renumbered Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110, formerly classified to section 3025 of this title, prior to repeal of such section by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3023, 3025 of this title.

§ 3028. Model projects.

(a) Grants or contracts; special consideration: housing, continuing education, preretirement services, and physically or mentally impaired persons.

The Commissioner may, after consultation with the State agency, make grants to any public or nonprofit private agency or organization or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which will expand or improve social services or otherwise promote the well-being of older persons. In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

(1) assist in meeting the special housing needs of older persons by (A) providing financial assistance to such persons, who own their own homes, necessary to enable them to make the repairs and renovations to their homes which are necessary for them to meet minimum standards, (B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older persons suffering from physical disabilities, and (C) demonstrating alternative methods of relieving older persons of the burden of real property taxes on their homes;

(2) provide continuing education to older persons designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older persons, emphasizing, where possible, free tuition arrangements with colleges and universities;

(3) provide preretirement education, information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to persons planning retirement;

(4) provide services to assist in meeting the particular needs of the physically and mentally impaired older persons including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading a more independent life; or

(5) enable State agencies on aging and other pubic and private nonprofit organizations to assist in the promotion and development of ombudsman services for residents of nursing homes;

(6) meet the special needs of, and improve the delivery of services to, older persons who are not receiving adequate services under other provisions of this chapter, with emphasis on the needs of low-income, minority, Indian, and limited-English speaking individuals, and the rural elderly; or

(7) assist older persons to remain within their communities and out of institutions and to maintain their independent living by (A) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, educational, nutritional, recreational, and social services at least twenty-four hours per week, transportation arrangements at low or no cost for participants to and from the center, a hot midday meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of such center), and (B) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated) with the agency of the State concerned which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act, and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of such center's costs in providing services to eligible persons.

(b) Authorization of appropriations.

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978. (Pub. L. 89–73, title III, § 308, as added Pub. L. 93–29, title III, § 301, May 3,

1973, 87 Stat. 44, and amended Pub. L. 94–135, title I, §§ 108, 112(c), Nov. 28, 1975, 89 Stat. 717, 719.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, § 305, as added Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110, formerly classified to section 3024a of this title, prior to repeal of such section by Pub. L. 93–29, title III, § 301, May 3, 1973, 87 Stat. 36.

REFERENCES IN TEXT

Title XIX of the Social Security Act, referred to in subsec. (a)(7), is classified to section 1396 et seq. of this title.

AMENDMENTS

1975—Subsecs. (a)(5)–(7). Pub. L. 94–135, § 108, added pars. (5) to (7).

Subsec. (b). Pub. L. 94–135, § 112(c), authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3017 of this title.

§ 3029. Transportation projects.

(a) Authorization of appropriations; grants; allotment formula.

There are authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, to carry out the purposes of this section. From sums appropriated under this section, the Commissioner is authorized to make grants to each State having a State plan approved under section 3025 of this title for the purpose of paying up to 75 per centum of the costs of meeting the transportation needs of older persons, with special emphasis on providing supportive transportation in connection with nutrition projects operated pursuant to subchapter VII of this chapter. Sums appropriated under this section shall be allotted to the States in accordance with the allotment formula contained in section 3023 of this title.

(b) Allotment availability; priority for applicants proposing to serve areas with no public transportation or with inadequate public transportation.

The allotment to a State under this section shall remain available until December 31, 1975, for grants and contracts to area agencies on aging, organized under section 3025(b) of this title, or to other public or nonprofit private agencies that the State agency determines have the capacity to meet the transportation needs of older persons and to provide supportive transportation services in connection with nutrition projects operated under subchapter VII of this chapter. In making grants and contracts under this section, State agencies shall give priority to applicants proposing to serve areas in which there is no public transportation or in which existing public transportation is inadequate to meet the special needs of older persons.

(c) Final regulations.

Within ninety days following the enactment of legislation appropriating funds as authorized by this section, the Commissioner shall issue final regulations for implementation of the program herein authorized.

(d) Technical assistance.

The Commissioner is authorized and directed to request the technical assistance and cooperation of the Secretary of Transportation and such other departments and agencies of the Federal Government as may be appropriate for the proper and effective administration of this section. (Pub. L. 89–73, title III, § 309, as added Pub. L. 93–351, § 3, July 12, 1974, 88 Stat. 357.)

SUBCHAPTER IV.—TRAINING AND RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3017, 3045 of this title.

PART A.—TRAINING

§ 3031. Statement of purpose.

The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by (1) developing information on the actual needs for personnel to work in the field of aging, both present and long range; (2) providing a broad range of quality training and retraining opportunities, responsive to changing needs of programs in the field of aging; (3) attracting a greater number of qualified persons into the field of aging; and (4) helping to make personnel training programs more responsive to the need for trained personnel in the field of aging. (Pub. L. 89–73, title IV, § 401, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45.)

CODIFICATION

A prior section 3031, Pub. L. 89–73, title IV, § 401, July 14, 1965, 79 Stat. 224; Pub. L. 90–42, § 5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 7, Sept. 17, 1969, 83 Stat. 111, which related to description of activities, was repealed by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3035 of this title.

§ 3032. Appraising personnel needs in the field of aging.

(a) Agency cooperation.

The Commissioner shall from time to time appraise the Nation's existing and future personnel needs in the field of aging, at all levels and in all types of programs, and the adequacy of the Nation's efforts to meet these needs. In developing information relating to personnel needs in the field of aging, the Commissioner shall consult with, and make maximum utilization of statistical and other related information of the Department of Labor, the Veterans' Administration, the Office of Education, Federal Council on the Aging, the National Foundation on the Arts and Humanities, State educational agencies, other State and local public agencies and offices dealing with problems of the aging, State employment security agencies, and other appropriate public and private agencies.

(b) Support.

The Commissioner shall prepare and publish annually as a part of the annual report provided in section 3018 of this title a report on the professions dealing with the problems of the aging, in which he shall present in detail his view on the state of such professions and the trends which he discerns with respect to the future complexion of programs for the aging throughout the Nation and the funds and the needs for well-educated personnel to staff such programs. The report shall indicate the Commissioner's plans concerning the allocation of Fed-

eral assistance under this subchapter in relation to the plans and programs of other Federal agencies. (Pub. L. 89–73, title IV, § 402, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45.)

CODIFICATION

A prior section 3032, Pub. L. 89–73, title IV, § 402, July 14, 1965, 79 Stat. 224, which related to payments of grants, providing in: subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, was repealed by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3037a of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title V, § 503, as added Pub. L. 90–42, § 6, July 1, 1967, 81 Stat. 108, formerly classified to section 3043 of this title, prior to repeal of such section by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3015 of this title.

§ 3033. Attracting qualified persons to the field of aging.

The Commissioner may make grants to State agencies referred to in section 3024 of this title, State or local educational agencies, institutions of higher education as defined in section 1141(a) of Title 20, or other public or nonprofit private agencies, organizations, or institutions, and he may enter into contracts with any agency, institution, or organization for the purpose of—

(1) publicizing available opportunities for careers in the field of aging;

(2) encouraging qualified persons to enter or reenter the field of aging;

(3) encouraging artists, craftsmen, artisans, scientists, and persons from other professions and vocations and homemakers, to undertake assignments on a part-time basis or for temporary periods in the field of aging; or

(4) preparing and disseminating materials, including audio-visual materials and printed materials, for use in recruitment and training of persons employed or preparing for employment in carrying out programs related to the purposes of this chapter.

(Pub. L. 89–73, title IV, § 403, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 46, and amended Pub. L. 94–135, title I, § 109, Nov. 28, 1975, 89 Stat. 717.)

AMENDMENTS

1975—Pub. L. 94–135 substituted "institutions of higher education as defined in section 1141(a) of Title 20" for "institutions of higher education".

§ 3034. Training programs for personnel in the field of aging.

(a) Grants or contracts; scope of assistance.

The Commissioner may make grants to any public or nonprofit private agency, organization, or institution or with State agencies referred to in section 3024 of this title, or contracts with any agency, organization, or institution, to assist them in training persons who are employed or preparing for employment in fields related to the purposes of this chapter—

(1) to assist in paying the costs, in whole or in part, of short-term and inservice training courses, workshops, institutes and other activities designed to improve the capabilities of participants to provide services to older persons and to administer programs related to the purposes of this chapter,

(2) to assist in paying the costs, in whole or in part, of post-secondary education courses of training or study related to the purposes of this chapter, including the payment of stipends to students enrolled in such courses,

(3) for establishing and maintaining fellowships to train persons to be supervisors or trainers of persons employed or preparing for employment in fields related to the purposes of this chapter,

(4) for seminars, conferences, symposiums, and workshops in the field of aging, including the conduct of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this chapter,

(5) for the improvement of programs for preparing personnel for careers in the field of aging, including design, development and evaluation of exemplary training programs, introduction of high quality and more effective curricula and curricula materials, and

(6) the provision of increased opportunities for practical experience.

(b) Payments; stipends; allowances to institution.

The Commissioner may include in the terms of any contract or grant under this part provisions authorizing the payment, to persons participating in training programs supported under this part, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he determines to be consistent with prevailing practices under comparable federally supported programs. Where the Commissioner provides for the use of funds under this section for fellowships, he shall (in addition to stipends for the recipients) pay to colleges or universities in which the fellowship is being pursued such amounts as the Commissioner shall determine to be consistent with prevailing practices under comparable federally supported programs.

(c) Legal assistance.

The Commissioner may make grants under subsection (a) of this section to assist in (1) the training of lawyers and paraprofessional persons who will (A) provide legal (including tax and financial) counseling and services to older persons; or (B) monitor the administration of any program by any public or private nonprofit institution, organization, or agency, or any State or political subdivision of a State, designed to provide assistance or services to older persons, including nursing home programs and other similar programs; and (2) the training of persons employed by or associated with public or private nonprofit agencies or organizations, including a State or political subdivision of a State, who will identify legal problems affecting older persons, develop solutions for such problems, and mobilize the resources of the community to respond to the legal needs of older persons. (Pub. L. 89–73, title IV, § 404,

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as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 46, and amended Pub. L. 94–135, title I, § 110, Nov. 28, 1975, 89 Stat. 718.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–135, § 110(b), added par. (1) and struck out former par. (1) authorization of grants and contracts to assist in covering the cost of courses of training or study (including short-term or regular session institutes and other inservice and preservice training programs).

Subsec. (a)(2). Pub. L. 94–135, § 110(b), added par. (2). Former par. (2) redesignated (3).

Subsecs. (a)(3)–(6). Pub. L. 94–135, § 110(a), redesignated former pars. (2)–(5) as (3)–(6).

Subsec. (c). Pub. L. 94–135, § 110(c), added subsec. (c).

PART B.—RESEARCH AND DEVELOPMENT PROJECTS

§ 3035. Description of activities.

The Commissioner may make grants to any public or nonprofit private agency, organization, or institution and contracts with any agency, organization, or institution or with any individual for the purpose of—

(1) studying current patterns and conditions of living of older persons and identifying factors which are beneficial or detrimental to the wholesome and meaningful living of such persons;

(2) developing or demonstrating new approaches, techniques, and methods (including the use of multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living for older persons;

(3) developing or demonstrating approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

(4) evaluating these approaches, techniques, and methods, as well as others which may assist older persons to enjoy wholesome and meaningful lives and to continue to contribute to the strength and welfare of our Nation;

(5) collecting and disseminating, through publications and other appropriate means, information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this part; or

(6) conducting conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part.

(Pub. L. 89–73, title IV, § 411, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 47.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title IV § 401, July 14, 1965, 79 Stat. 224; Pub. L. 90–42, § 5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 7, Sept. 17, 1969, 83 Stat. 111, formerly classified to section 3031 of this title, prior to repeal of such section by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45.

§ 3035a. Special study and demonstration projects on the transportation problems of older Americans.

(a) Special considerations.

The Commissioner shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development, conduct a comprehensive study and survey of the transportation problems of older Americans with emphasis upon solutions that are practicable and can be implemented in a timely fashion. In conducting the study and survey, the Commissioner shall consider—

(1) the use of all community transportation facilities, particularly public transportation systems, the possible use of school buses, and excess Department of Defense vehicles; and

(2) the need for revised and improved procedures for obtaining motor vehicle insurance by older Americans to be implemented for use in a coordinated transportation system.

(b) Research and demonstration projects.

In connection with the study required by subsection (a) of this section, the Commissioner, in coordination with the Secretary of Transportation and the Secretary of Housing and Urban development, shall conduct research and demonstration projects, either directly or by grants or contracts with public or private nonprofit agencies and organizations, in order to—

(1) demonstrate possible solutions of economic and service aspect of furnishing adequate transportation to older persons in rural and urban areas including transportation services furnished by social service agencies;

(2) demonstrate improvement of transportation services available to older persons with emphasis on (A) establishing special transportation subsystems for older persons or similar groups with similar mobility restrictions, (B) providing portal-to-portal service and demand actuated services, (C) making payments directly to older persons to enable them to obtain reasonable and necessary transportation services;

(3) demonstrate improved coordination between transportation systems and social service delivery systems; and

(4) demonstrate innovative solutions for other special transportation problems confronting older Americans.

(c) Same; number of projects for rural States.

At least half of the projects authorized under subsection (b) of this section shall be conducted in States that are predominantly rural in character.

(d) Report to Secretary of Transportation, President, and Congress.

Not later than January 1, 1975, the Commissioner shall prepare and transmit to the Secretary, to the President, and to the Congress, a report on his findings and recommendations, including a plan for implementation of improved transportation services for older Americans and recommendations for additional legislation, administrative and other measures to provide solutions to the transportation problems of older Americans not later than January 1, 1975, as he deems advisable.

(e) Experts and consultants; agency cooperation.

In carrying out the study and survey, and the demonstration and research projects under this section, the Commissioner is authorized to—

(1) procure temporary or intermittent services of experts and consultants in accordance with section 3109 of Title 5, and

(2) secure directly from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality information, suggestions, estimates, and statistics for the purpose of this section; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized and directed to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commissioner upon request made by him.

(Pub. L. 89–73, title IV, § 412, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 47.)

Part C.—Multidisciplinary Centers of Gerontology

§ 3036. Applications for grants for establishment or support of multidisciplinary centers of gerontology; terms and conditions.

The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology. A grant may be made under this section only if the application therefor—

(1) provides satisfactory assurance that the applicant will expend the full amount of the grant to establish or support a multidisciplinary center of gerontology which shall—

(A) recruit and train personnel at the professional and subprofessional levels,

(B) conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas,

(C) provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for them,

(D) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research,

(E) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges or universities,

(F) help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities, and

(G) create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the applicant under this section; and

(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(Pub. L. 89–73, title IV, § 421, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 48.)

Part D.—Authorization of Appropriations

§ 3037. Authorization of appropriations.

There are authorized to be appropriated for the purposes of carrying out this subchapter such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978. (Pub. L. 89–73, title IV, § 431, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 49, and amended Pub. L. 94–135, title I, § 112(d), Nov. 28, 1975, 89 Stat. 720.)

Prior Provisions

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title VIII, § 803, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 4, July 1, 1967, 81 Stat. 107; renumbered title VII, § 703, and amended Pub. L. 91–69, §§ 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, § 803, Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, formerly classified to section 3053 of this title, prior to repeal of such section by Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36.

Amendments

1975—Pub. L. 94–135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3037a. Payments of grants.

(a) Contributions of recipients.

To the extent he deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this subchapter to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Adjustments; advances or reimbursement; installments; conditions.

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(c) Consultations with State agency.

The Commissioner shall make no grant or contract under this subchapter in any State which has established or designated a State agency for purposes of subchapter III of this chapter unless the Commissioner has consulted with such State agency regarding such grant or contract. (Pub. L. 89–73, title IV, § 432, as added Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 49, and amended Pub. L. 94–135, title I, § 114(f), Nov. 28, 1975, 89 Stat. 725.)

Prior Provisions

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title IV, § 402, title V, § 502, July 14, 1965, 79 Stat. 224, 225, formerly classified to sections 3032 and 3042 of this title, prior to repeal of such

sections by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–135 substituted "subchapter" for "part".

SUBCHAPTER V.—MULTIPURPOSE SENIOR CENTERS

PART A.—ACQUISITION, ALTERATION, OR RENOVATION OF MULTIPURPOSE SENIOR CENTERS

§ 3041. Grants or contracts.

(a) Authority of Commissioner; percentage limitation; proximity of facilities.

In order to provide a focal point in communities for the development and delivery of social services and nutritional services designed primarily for older persons, the Commissioner may make grants to units of general purpose local government or other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 75 per centum of the cost of acquiring, altering, or renovating existing facilities to serve as multipurpose senior centers (including the initial equipment of such facilities). Facilities assisted by grants or contracts under this part shall be in close proximity to the majority of individuals eligible to use the multipurpose senior center, and within walking distance where possible.

(b) State percentage limitation.

The total payments made pursuant to grants or contracts under this section in any State for any fiscal year shall not exceed 10 per centum of the total amount appropriated for the year for the purposes of carrying out this part.

(c) Multipurpose senior center defined.

The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services (including provision of health, social, and educational services and provision of facilities for recreational activities) for older persons. (Pub. L. 89–73, title V, § 501, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 50.)

CODIFICATION

A prior section 3041, Pub. L. 89–73, title V, § 501, July 14, 1965, 79 Stat. 224; Pub. L. 91–69, § 8, Sept. 17, 1969, 83 Stat. 111, which related to training project grants and contracts, training programs, studies, preparation and dissemination of materials, and conferences, was repealed by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by subchapter IV of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3041d of this title.

§ 3041a. Requirements for approval of applications; preferred areas; agency cooperation.

(a) A grant or contract for purchase under this part may be made only if the application therefor is approved by the Commissioner upon his determination that—

(1) the application contains or is supported by reasonable assurances that (A) for not less than ten years after purchase, the facility will be used for the purposes for which it is to be purchased, (B) sufficient funds will be available to meet the non-Federal share of the cost of purchase of the facility, (C) sufficient funds will be available, when purchase is completed, for effective use of the facility for the purpose for which it is being purchased, and (D) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

(2) the application contains or is supported by reasonable assurances that there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

(3) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968); and

(4) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractors or subcontractors in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40.

(b) In making grants or contracts under this part, the Commissioner shall—

(1) give preference to the acquisition of multipurpose senior centers in areas where there is being developed a comprehensive and coordinated system under subchapter III of this chapter; and

(2) consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation.

(Pub. L. 89–73, title V, § 502, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 50.)

REFERENCES IN TEXT

Architectural Barriers Act of 1968, referred to in subsec. (a)(3), is classified to chapter 51 (section 4151 et seq.) of this title.

Davis-Bacon Act, as amended, referred to in subsec. (a)(4), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3041b. Payments; reservation from appropriations amount of grant or contract; amendment; advances; reimbursement; installments.

Upon approval of any application for a grant or contract under this part, the Commissioner shall reserve, from any appropriation available therefor, the amount of such grant or contract. The amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with progress in alteration or renovation, as the Commissioner may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of altering or renovating the facility. (Pub. L. 89–73, title V § 503, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 51.)

§ 3041c. Recapture of payments.

If, within ten years after purchase of any facility for which funds have been paid under this part—

(a) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

(b) the facility ceases to be used for the purposes for which it was purchased (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated. (Pub. L. 89–73, title V, § 504, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 51.)

§ 3041d. Authorization of appropriations.

(a) There are authorized to be appropriated for the purpose of making grants or contracts under section 3041 of this title, such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978.

(b) Sums appropriated for any fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available for such purpose for the next fiscal year. (Pub. L. 89–73, title V, § 505, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 51, and amended Pub. L. 94–135, title I, § 112(e), Nov. 28, 1975, 89 Stat. 720.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3041e. Mortgage insurance for Multipurpose Senior Centers.

(a) Statement of purpose.

It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for the elderly.

(b) Definitions.

For the purpose of this part the terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 1713 of Title 12.

(c) Terms and conditions of mortgage insurance; commencement of commitments.

The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, or renovation) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) New multipurpose senior center coverage; conditions of mortgage insurance; limitation of amount.

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at anytime as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

(5) In the plans for such Multipurpose Senior Center, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(e) Premium charges: annual advance payments, limitation; appraisal and inspection charges, limitation.

The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at

any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during acquisition, alteration, or renovation; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) Releases from mortgage liens; terms and conditions.

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(g) Functions, powers, and duties of Secretary; National Housing Act applicable and references construed.

(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of Title 12 shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h) Multipurpose Senior Center Insurance Fund; establishment; revolving fund; general expenses of insurance operations; deposits in Treasury; investments; open market purchases and cancellation of debentures; credits and charges; authorization of appropriations.

(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all of the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary (Pub. L. 89–73, title V, § 506, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 51.)

REFERENCES IN TEXT

Title II of the National Housing Act, referred to in subsec. (g)(1), is classified to section 1707 et seq. of Title 12, Banks and Banking.

§ 3041f. Annual interest grants.

(a) Authority of Secretary.

To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration or renovation of facilities, the Secretary may make annual interest grants to such agencies.

(b) Term; guarantee of payment; amount.

Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the acquisition, alteration, or renovation of such facilities and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 per centum per annum: *Provided,* That the amount on which such grant is based shall be approved by the Secretary.

(c) Authorization of appropriations; aggregate amount of contracts.

(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for payment of annual interest grants in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggre-

gate amount greater than is authorized in appropriation Acts.

(d) Limitation of funds for any State.

Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State. (Pub. L. 89–73, title V, § 507, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 54, and amended Pub. L. 94–135, title I, § 114 (g), Nov. 28, 1975, 89 Stat. 725.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94–135 substituted "of" for "or" preceding "such facilities".

PART B.—INITIAL STAFFING OF MULTIPURPOSE SENIOR CENTERS

§ 3042. Personnel staffing grant program.

(a) Authority of Commissioner.

For the purpose of assisting in the establishment and initial operation of multipurpose senior centers the Commissioner may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this part, all or part of the costs of compensation of professional and technical personnel for the initial operation of new multipurpose senior centers and for the delivery of social services established therein.

(b) Term of grants; limitation of amount.

Grants for such costs of any center under this subchapter may be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day. Such grants with respect to any center may not exceed 75 per centum of such costs for the first year of the project, 66⅔ per centum of such costs for the second year of the project, and 50 per centum of such costs for the third year of the project.

(c) Considerations in making grants.

In making such grants, the Secretary shall take into account the relative needs of the several States for community centers for senior citizens, their relative financial needs, and their population of persons over sixty years of age.

(d) Authorization of appropriations.

For the purpose of this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. (Pub. L. 89–73, title V, § 511, as added Pub. L. 93–29, title V, § 501, May 3, 1973, 87 Stat. 54.)

CODIFICATION

A prior section 3042, Pub. L. 89–73, title V, § 502, July 14, 1965, 79 Stat. 225, which related to payments of training project grants, providing in subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments, and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, was repealed by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3037a of this title.

A prior section 3043, Pub. L. 89–73, title V, § 503, as added Pub. L. 90–42, § 6, July 1, 1967, 81 Stat. 108, which related to study of need for trained personnel; and consultations with other government and private agencies and organizations, was repealed by Pub. L. 93–29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3032 of this title.

SUBCHAPTER VI.—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

§§ 3044 to 3044e. Repealed. Pub. L. 93–113, title VI, § 604 (a), Oct. 1, 1973, 87 Stat. 417.

Section 3044, Pub. L. 89–73, title VI, § 601, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111, and amended Pub. L. 93–29, title VI, § 601, May 3, 1973, 87 Stat. 55, related to grants and contracts for volunteer service projects, providing in: subsec. (a) for approval of programs and rules and regulations; subsec. (b) for method of payment; subsec. (c) for conditions upon award of grant or contract, and subsec. (d) for exclusion as income of compensation to individual volunteers.

Section 3044a, Pub. L. 89–73, title VI, § 603, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 112, and amended Pub. L. 93–29, title VI, § 602, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

Section 3044b, Pub. L. 89–73, title VI, § 611, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 112, and amended Pub. L. 92–424, § 29(a), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93–29, title VI, § 603(b), May 3, 1973, 87 Stat. 55, related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers.

Section 3044c, Pub. L. 89–73, title VI, § 612, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 113, related to conditions upon award of grantor contract and defined "community action agency".

Section 3044d, Pub. L. 89–73, title VI, § 613, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 113, and amended Pub. L. 93–29, title VI, § 603(c), May 3, 1973, 87 Stat. 55, related to interagency cooperation.

Section 3044e, Pub. L. 89–73, title VI, § 614, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 114, and amended Pub. L. 93–29, title VI, § 604, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
3044(a)(1), (2)	5001(a)(1), (2)
3044(a)(3)	5044(a)
3044(a)(4), (5)	5001(a)(3), (4)
3044(a)(6)	5021
3044(b)	5022
3044(c)	5001(b)
3044(d)	5058
3044a	5082(a)
3044b(a), (b)	5011(a), (b)
3044b(c)	5022
3044b(d)	5058
3044c(a)(1)(A)	5012(a)(1)
3044c(a)(1)(B)	5044(a)
3044c(a)(2), (3)	5012(a)(2), (3)
3044c(b)	5012(b)
3044d	5021
3044e	5082(b)

SUBCHAPTER VII.—NUTRITION PROGRAM FOR THE ELDERLY [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1762a, 3024, 3026, 3029 of this title.

§ 3045. Congressional findings and declaration of purpose.

(a) The Congress finds that the research and development nutrition projects for the elderly conducted under subchapter IV of this chapter have demonstrated the effectiveness of, and the need for, permanent nationwide projects to assist in meeting the nutritional and social needs of millions of persons aged sixty or older. Many elderly persons do not eat adequately because (1) they cannot afford to do so; (2) they lack the skills to select and prepare

nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone. These and other physiological, psychological, social, and economic changes that occur with aging result in a pattern of living, which causes malnutrition and further physical and mental deterioration.

(b) In addition to the food stamp program, commodity distribution systems and old-age income benefits, there is an acute need for a national policy which provides older Americans, particularly those with low incomes, with low cost, nutritionally sound meals served in strategically located centers such as schools, churches, community centers, senior citizen centers, and other public or private nonprofit institutions where they can obtain other social and rehabilitative services. Besides promoting better health among the older segment of our population through improved nutrition, such a program would reduce the isolation of old age, offering older Americans an opportunity to live their remaining years in dignity. (Pub. L. 89–73, title VII, § 701, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045e of this title.

§ 3045a. Administration.

(a) In order to effectively carry out the purposes of this subchapter, the Commissioner shall—

(1) administer the program through the Administration on Aging; and

(2) consult with the Secretary of Agriculture and make full utilization of the Food and Nutrition Service, and other existing services of the Department of Agriculture.

(b) In carrying out the provisions of this subchapter, the Commissioner is authorized to request the technical assistance and cooperation of the Department of Labor, the Office of Economic Opportunity, the Department of Housing and Urban Development, the Department of Transportation, and such other departments and agencies of the Federal Government as may be appropriate.

(c) The Commissioner is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities.

(d) In carrying out the purposes of this subchapter, the Commissioner is authorized to provide consultative services and technical assistance to any public or private nonprofit institution or organization, agency, or political subdivision of a State; to provide short-term training and technical instruction; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subchapter. (Pub. L. 89–73, title VII, § 702, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 89, and amended Pub. L. 93–29, title VII, § 704(c), May 3, 1973, 87 Stat. 57.)

AMENDMENTS

1973—Pub. L. 93–29 substituted, wherever appearing in subsecs. (a)–(d), "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 3045b. Allotment of funds.

(a) State proportionate share formula.

(1) From the sums appropriated for any fiscal year under section 3045g of this title, each State shall be allotted an amount which bears the same ratio to such sum as the population aged 60 or over in such State bears to the population aged 60 or over in all States, except that (A) no State shall be allotted less than one-half of 1 percentum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The number of persons aged sixty or over in any State and for all States shall be determined by the Commissioner on the basis of the most satisfactory data available to him.

(b) Reallotment of unrequired portion.

The amount of any State's allotment under subsection (a) of this section of any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for that year.

(c) Federal allotment; matching non-Federal funds.

The allotment of any State under subsection (a) of this section for any fiscal year shall be available for grants to pay up to 90 per centum of the costs of projects in such State described in section 3045e of

this title and approved by such State in accordance with its State plan approved under section 3045d of this title, but only to the extent that such costs are both reasonable and necessary for the conduct of such projects, as determined by the Commissioner in accordance with criteria prescribed by him in regulations. Such allotment to any State in any fiscal year shall be made upon the condition that the Federal allotment will be matched during each fiscal year by 10 per centum, or more, as the case may be, from funds or in-kind resources from non-Federal sources.

(d) Disbursement of unqualified state's allotment.

If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 3045d of this title, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a) of this section. The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan in accordance with the provisions of section 3045d of this title, including the requirement that any such payment or payments shall be matched in the proportion specified in subsection (c) of this section for such State, by funds or in-kind resources from non-Federal sources.

(e) Purchase of agricultural commodities by state agencies.

The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this subchapter. The Commissioner may require reports from State agencies, in such form and detail as he may prescribe, concerning requests by recipients of grants or contracts for the purchase of such agricultural commodities and other foods, and action taken thereon. (Pub. L. 89–73, title VII, § 703, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 90, and amended Pub. L. 93–29, title VII, § 704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94–135, title I, § 114 (i), (j), Nov. 28, 1975, 89 Stat. 726.)

CODIFICATION

Reference in subsec. (e) to nutrition projects assisted under this subchapter was, in the original, a reference to nutrition projects assisted under this part. Since the provisions added by Pub. L. 92–258 contained no "part", the term "part" as used in such subsec. (e) has been translated as "subchapter" as the probable intent of Congress.

AMENDMENTS

1975—Subsecs. (c), (d). Pub. L. 94–135, § 114(i), (j), substituted "in-kind" for "in kind" in last sentence of subsecs. (c) and (d).

1973—Pub. L. 93–29 substituted, wherever appearing in subsecs. (a)(2), (b), (c), (d), and (e), "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3026, 3045e of this title.

§ 3045c. Payment of grants.

Payments pursuant to grants or contracts under this subchapter may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine. (Pub. L. 89–73, title VII, § 704, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 91, and amended Pub. L. 93–29, title VII, § 704(c), May 3, 1973, 87 Stat 57.)

AMENDMENTS

1973—Pub. L. 93–29 substituted "Commissioner" for "Secretary".

§ 3045d. State plans.

(a) Requisite features of plan.

Any State which desires to receive allotments under this subchapter shall submit to the Commissioner for approval a State plan for purposes of this subchapter which, in the case of a State agency designated pursuant to section 3024 of this title, shall be in the form of an amendment to the State plan provided in section 3025 of this title. Such plan shall—

(1) establish or designate a single State agency as the sole agency for administering or supervising the administration of the plan and coordinating operations under the plan with other agencies providing services to the elderly, which agency shall be the agency designated pursuant to section 3024(a)(1) of this title, unless the Governor of such State shall, with the approval of the Commissioner, designate another agency;

(2) set forth such policies and procedures as will provide satisfactory assurance that allotments paid to the State under the provisions of this subchapter will be expended—

(A) to make grants in cash or in kind to any public or private nonprofit institution or organization, agency, or political subdivision of a State (referred to herein as "recipient of a grant or contract")—

(i) to carry out the program as described in section 3045e of this title.

(ii) to provide up to 90 per centum of the costs of the purchase and preparation of the food; delivery of the meals; and such other reasonable expenses as may be incurred in providing nutrition services to persons aged sixty or over. Recipients of grants or contracts may charge participating individuals for meals furnished pursuant to guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract.

(iii) to provide up to 90 per centum of the costs of such supporting services as may be necessary in each instance, such as the costs of related social services and, where appropriate, the costs of transportation between the project site and the residences of eligible individuals who could not participate in the project in the absence of such transportation, to the extent such costs are not met through other Federal, State, or local programs.

(B) to provide for the proper and efficient administration of the State plan at the least possible administrative cost. Funds allotted to a State for State planning and administration pursuant to section 3026 of this title may be

used for the administration of the State plan submitted pursuant to this section, except that wherever the governor of the State designates an agency other than the agency designated under section 3024(a)(1) of this title, then the Commissioner shall determine that portion of a State's allotment under section 3026 of this title which shall be available to the agency designated under subsection (a)(1) of this section for planning and administration. In administering the State plan, the State agency shall—

(i) make reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this subchapter, including reports of participation by the groups specified in subsection (4) of this section; and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter, and

(ii) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds paid by the State to the recipient of a grant or contract.

(3) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan.

(4) provide that preference shall be given in awarding grants to carry out the purposes of this subchapter to projects serving primarily low-income individuals and provide assurances that, to the extent feasible, grants will be awarded to projects operated by and serving the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

(5) provide that, when mutually agreed upon by recipients of grants and contracts and area planning and service area agencies, nutrition projects assisted under this subchapter shall be made a part of the comprehensive and coordinated systems established under subchapter III of this chapter.

(b) Approval of plan

The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section.

(c) Noncompliance; payments termination.

Whenever the Commissioner, subject to reasonable notice and opportunity for hearing to such State agency, finds (1) that the State plan has been so changed that it no longer complies with the provisions of this subchapter, or (2) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Commissioner shall notify such State agency that further payments will not be made to the State under the provisions of this subchapter (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State agency shall not make further payments under this subchapter to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under this subchapter, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure, or payments to the State agency under this subchapter shall be limited to recipients of grants or contracts not affected by the failure, as the case may be.

(d) Judicial review.

(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under subsection (a) of this section, or with respect to termination of payments in whole or in part under subsection (c) of this section, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of Title 28.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (Pub. L. 89–73, title VII, § 705, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 91, and amended Pub. L. 93–29, title VII, §§ 702–704, May 3, 1973, 87 Stat. 56, 57; Pub. L. 94–135, title I, § 114(k)–(n), Nov. 28, 1975, 89 Stat. 726.)

CODIFICATION

References in subsec. (c) to payments to the State agency and to specified local agencies under this subchapter were, in the original, references to payments under this part. Since the provisions added by Pub. L. 92–258 contained no "part", the term "part" as used in such subsec. (c) has been translated as "subchapter" as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a)(2). Pub. L. 94–135, § 114(k), substituted "set" for "sets".

Subsec. (a)(2)(B). Pub. L. 94–135, § 114(*l*), substituted "cost. Funds" for "cost, for the fiscal year ending June 30, 1973, not to exceed an amount equal to 10 per centum of the amount allotted to the State unless a greater amount in such fiscal year is approved by the Commissioner. For the fiscal years ending after June 30, 1973, funds".

Subsec. (a)(5). Pub. L. 94–135, § 114(m), substituted "area" for "areas".

Subsec. (c). Pub. L. 94–135, § 114(n), inserted a comma after "failure" where appearing the first time in last sentence and substituted in such sentence "subchapter" for "part" without providing for like substitution in parenthetical text of first sentence, where the change has been made to reflect manifest legislative intent.

1973—Subsec. (a). Pub. L. 93–29 § 704(a), substituted section "3024" for "3023" where first appearing and "3025" for "3023" where appearing a second time in the first sentence.

Subsec. (a)(1). Pub. L. 93–29, § 704(b), substituted section "3024" for "3023".

Subsec. (a)(2)(B). Pub. L. 93–29, § 703, substituted "administrative cost, for the fiscal year ending June 30, 1973," for "administrative cost," and "such fiscal year" for "any fiscal year" in the text preceding cl. (i) and added provisions respecting use of funds allotted to a State for State planning and administration, for fiscal years ending after June 30, 1973, and what portion of a State's allotment shall be available to an agency designated by the governor other than the agency designated under section 3024(a)(1) of this title.

Subsec. (a)(5). Pub. L. 93–29, § 702, added par. (5).

Pub. L. 93–29, § 704(c), substituted, wherever appearing in subsecs (a), (a)(1), (a)(2)(A)(ii), (B), (B)(i), (a)(3), (b), (c), (d) of this section, "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045b of this title.

§ 3045e. Nutrition and other program requirements.

(a) Funds allotted to any State during any fiscal year pursuant to section 3045b of this title shall be disbursed by the State agency to recipients of grants or contracts who agree—

(1) to establish a project (referred to herein as a "nutrition project") which, five or more days per week, provides at least one hot meal per day and any additional meals, hot or cold, which the recipient of a grant or contract may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) to provide such nutrition project for individuals aged sixty or over who meet the specifications set forth in clauses (1), (2), (3), or (4) of section 3045(a) of this title and their spouses (referred to herein as "eligible individuals");

(3) to furnish a site for such nutrition project in as close proximity to the majority of eligible individuals' residences as feasible, such as a school or a church, preferably within walking distance where possible and, where appropriate, to furnish transportation to such site or home-delivered meals to eligible individuals who are homebound;

(4) to utilize methods of administration, including outreach, which will assure that the maximum number of eligible individuals may have an opportunity to participate in such nutrition project;

(5) to provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(6) to provide a setting conducive to expanding the nutrition project and to include, as a part of such project, recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available;

(7) to include such training as may be necessary to enable the personnel to carry out the provisions of this subchapter;

(8) to establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition program is being provided, of elderly persons who will themselves participate in the program, and of persons who are knowledgeable with regard to the needs of elderly persons;

(9) to provide an opportunity to evaluate the effectiveness, feasibility, and cost of each particular type of such project;

(10) to give preference to persons aged sixty or over for any staff positions, full- or part-time, for which such persons qualify and to encourage the voluntary participation of other groups, such as college and high school students in the operation of the project; and

(11) to comply with such other standards as the Commissioner may by regulation prescribe in order to assure the high quality of the nutrition project and its general effectiveness in attaining the objectives of this subchapter.

(b) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this subchapter. (Pub. L. 89–73, title VII, § 706, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 93, and amended Pub. L. 93–29, title VII, § 704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94–135, title I, § 114(o), (p), Nov. 28, 1975, 89 Stat. 726.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135, § 114(o), (p), inserted a comma after "religious requirements" in par. (5) and "in the program" in par. (8).

1973—Pub. L. 93–29 substituted, wherever appearing in subsecs. (a)(11), (b) of this section, "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3045b, 3045d of this title.

§ 3045f. Surplus commodities.

(a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 612c of Title 7 shall be donated to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this subchapter.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 1431 of Title 7 by donating them to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this subchapter.

(3) Dairy products purchased by the Secretary of Agriculture under section 1446a–1 of Title 7 shall be used to meet the requirements of programs providing nutritional services in accordance with the provisions of this subchapter.

(4) In donating commodities pursuant to this paragraph, the Secretary of Agriculture shall maintain an annually programed level of assistance of not less than 15 cents per meal during the fiscal year ending September 30, 1976, and 25 cents per meal during the fiscal year ending September 30, 1977: *Provided*, That this amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this paragraph, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities pursuant to this paragraph, and, within ninety days after July 12, 1974, the Secretary of Agriculture shall issue regulations governing the donation of such commodities.

(b) The Secretary of Agriculture in consultation with the Commissioner shall, within ninety days after July 12, 1974, issue regulations clarifying the use of food stamps under this subchapter.

(c)(1) During each of the fiscal years ending June 30, 1975, and June 30, 1976, and during the period beginning July 1, 1976, and ending September 30, 1976, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutritional services in accordance with the provisions of this subchapter. High protein food, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

(2) High protein food, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) of this section with respect to the annually programed level of assistance under subsection (a) of this section.

(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established under paragraph (1).

(d)(1) Notwithstanding any other provision of law, in any case in which a State has phased out its commodity distribution facilities before June 30, 1974, such State may, for purposes of the programs authorized by this chapter, elect to receive cash payments in lieu of donated foods. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution facilities.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects. (Pub. L. 89–73, title VII, § 707, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 94, and amended Pub. L. 93–29, title VII, § 701, May 3, 1973, 87 Stat. 56; Pub. L. 93–351, § 5, July 12, 1974, 88 Stat. 358; Pub. L. 94–135, title I, § 111(a)–(d), (f), Nov. 28, 1975, 89 Stat. 718, 719.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135, § 111(a)–(c), (f), designated existing provisions as par. (1), redesignated former subsecs. (b) to (d) as pars. (2) to (4), substituted "this subsection" for "this section" wherever appearing in par. (4); substituted "15 cents per meal during the fiscal year ending September 30, 1976, and 25 cents per meal during the fiscal year ending September 30, 1977:" for "10 cents per meal:" in par. (4); substituted "shall" for "may" in pars. (1) to (3); and substituted "this paragraph" for "this subsection" wherever appearing in par. (4).

Subsec. (b). Pub. L. 94–135, § 111(a), redesignated former subsec. (e) as (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 94–135, § 111(a), added subsec. (c). Former subsec. (c) redesignated (a)(3).

Subsec. (d). Pub. L. 94–135, § 111(d), added subsec. (d). Former subsec. (d) redesignated (a)(4).

Subsec. (e). Pub. L. 94–135, § 111(a), redesignated former subsec. (e) as (b).

1974—Subsecs. (d), (e). Pub. L. 93–351 added subsecs. (d) and (e).

1973—Subsec. (a). Pub. L. 93–29, in revising the subsection, abbreviated the text without substantial change and deleted authorization of Secretary of Agriculture to prescribe terms and conditions respecting use of commodities donated under section 612c of Title 7 as would maximize the nutritional and financial contributions of such donated commodities in public or private nonprofit institutions or organizations, agencies, or political institutions of a State.

Subsec. (b). Pub. L. 93–29 added subsec. (b). Former subsec. (b) authorized Secretary of Agriculture to utilize the projects authorized under this subchapter in carrying out the provisions of clause (2) of section 612c of Title 7.

Subsec. (c). Pub. L. 93–29 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045g of this title.

§ 3045g. Authorization of appropriations.

For the purpose of carrying out the provisions of this subchapter (other than section 3045f(c) of this title) there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $150,000,000 for the fiscal year ending June 30, 1974, $150,000,000 for the fiscal year ending June 30, 1975, $200,000,000 for the fiscal year ending June 30, 1976, $62,500,000 for the period beginning July 1, 1976, and ending September 30. 1976, $250,000,000 for the fiscal year ending September 30, 1977, and $275,000,000 for the fiscal year ending September 30, 1978. In addition, there are hereby authorized to be appropriated for such fiscal years, as part of the appropriations for salaries and expenses for the Administration on Aging, such sums as Congress may determine to be necessary to carry out the provisions of

this subchapter. Sums appropriated pursuant to this section which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year. (Pub. L. 89–73, title VII, § 708, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 94, and amended Pub. L. 93–351, § 1, July 12, 1974, 88 Stat. 357; Pub. L. 94–135, title I, §§ 111(e), 112(f), Nov. 28, 1975, 89 Stat. 719, 720.)

AMENDMENTS

1975—Pub. L. 94–135 substituted in first sentence "this subchapter (other than section 3045f(c) of this title)" for "this subchapter" and authorization for obligation and expenditure of appropriated but not obligated funds in amount of $62,500,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, $250,000,000 for fiscal year ending Sept. 30, 1977, and $275,000,000 for fiscal year ending Sept. 3, 1978, for prior authorization for obligation and expenditure of unobligated funds in amount of $250,000,000 for fiscal year ending June 30, 1977.

1974—Pub. L. 93–351 authorized appropriations of $150,000,000 for the fiscal year ending June 30, 1975, $200,000,000 for the fiscal year ending June 30, 1976, and $250,000,000 for the fiscal year ending June 30, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045b of this title.

§ 3045h. Relationship to other laws.

No part of the cost of any project under this subchapter may be treated as income or benefits to any eligible individual for the purpose of any other program or provision of State or Federal law. (Pub. L. 89–73, title VII, § 709, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 95.)

§ 3045i. Agreements with profitmaking organizations.

None of the provisions of this subchapter shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization to carry out the provisions of this subchapter and of the appropriate State plan. (Pub. L. 89–73, title VII, § 710, as added Pub. L. 92–258, § 2, Mar. 22, 1972, 86 Stat. 95.)

SUBCHAPTER VIII.—GENERAL PROVISIONS

§§ 3051 to 3055. Repealed. Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36.

CODIFICATION

Sections 3051 to 3055, which comprised former subchapter VIII of this chapter, were repealed by Pub. L. 93–29, title II, § 202, May 3, 1973, 87 Stat. 36. Such sections contained the following provisions:

Section 3051, Pub. L. 89–73, title VIII, § 801, formerly title VI, § 601, July 14, 1965, 79 Stat. 225; Pub. L. 90–42, § 5(c), (d), July 1, 1967, 81 Stat. 107; renumbered title VII, § 701, Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 801, Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, related to advisory committees in general, providing in: subsec. (a) for establishment of Advisory Committee on Older Americans, its membership, and term of office; subsec. (b) for appointment of technical advistory committees; subsec. (c) for compensation and travel expenses; and subsec. (d) for technical and clerical assistance for Advisory Committee. A Federal Council on the Aging is now provided for in section 3015 of this title.

Section 3052, Pub. L. 89–73, title VIII, § 802, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VII, § 702, Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 802, Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, related to administration, and is now covered by section 3016 (a), (b) of this title.

Section 3053, Pub. L. 89–73, title VIII, § 803, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 4, July 1, 1967, 81 Stat. 107; renumbered title VII, § 703 and amended Pub. L. 91–69, §§ 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, § 803, Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, related to authorization of appropriations, and is now covered by section 3037 of this title.

Section 3054, Pub. L. 89–73, title VIII, § 804, formerly title VII, § 704, as added Pub. L. 91–69, § 12, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, related to evaluation of programs, and is now covered by section 3017(g) of this title. See such section 3017 generally.

Section 3055, Pub. L. 89–73, title VIII, § 805, formerly title VII, § 705, as added Pub. L. 91–69, § 13, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92–258, § 1, Mar. 22, 1972, 86 Stat. 88, related to joint funding of projects, and is now covered by section 3019 of this title.

SUBCHAPTER IX.—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS [NEW]

§ 3056. Older American Community Service Employment Program.

(a) Employment.

In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter in this subchapter referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b) Authority of Secretary; execution of agreements with terms and conditions for furthering purposes and goals of program; regulations for execution of subchapter provisions.

(1) In order to carry out the provisions of this subchapter, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c) of this section, of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities

and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of Title 26, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service jobs assisted under this subchapter shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this subchapter, in accordance with regulations promulgated by the Secretary;

(M) will assure that, to the extent feasible, such project will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State; and

(N) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this subchapter.

(c) Costs; non-Federal share.

(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section, except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources. (Pub. L. 89–73, title IX, § 902, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 720.)

REFERENCES IN TEXT

Fair Labor Standards Act of 1938, and sections 6(a)(1) and 13 of such Act, referred to in subsec. (b)(1)(J), are classified to sections 201 et seq., 206(a)(1), and 213 of Title 29, Labor, respectively.

SHORT TITLE

Pub. L. 89–73, title IX, § 901, as added by Pub. L. 94–135, title I, § 113(a), provided that: "The provisions of this title [this subchapter] may be cited as the 'Older American Community Service Employment Act'."

§ 3056a. Administration of community service projects.

(a) Consideration of needs of localities, employment situation and skills of eligible participants, and potential projects and number and percentage of eligible individuals in local population.

In order to effectively carry out the provisions of this subchapter, the Secretary shall, through the Commissioner of the Administration on Aging, consult with the State agency on aging designated under section 3024(a)(1) of this title and the appropriate area agencies on aging established under section 3024(a)(2) of this title with regard to—

(1) the localities in which community service projects of the type authorized by this subchapter are most needed;

(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) Coordination of Older American Community Service Employment Program with other Federal programs; prohibition against use of appropriations under this chapter for other Federal programs.

If the Secretary determines that to do so would increase job opportunities available to individuals under this subchapter, the Secretary is authorized to coordinate the program assisted under this subchapter with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this chapter may not be used to carry out any program under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, or the Emergency Employment Act of 1971.

(c) Use of services, equipment, personnel, and facilities of Federal and other agencies; cooperation with other public and private agencies in such use.

In carrying out the provisions of this subchapter, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments; advances; reimbursement; installments.

Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) Delegation of functions prohibited.

The Secretary shall not delegate any function of the Secretary under this subchapter to any other department or agency of the Federal Government. (Pub. L. 89–73, title IX, § 903, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 722.)

REFERENCES IN TEXT

Emergency Jobs and Unemployment Assistance Act of 1974, and Comprehensive Employment and Training Act of 1973, referred to in subsec. (b), are classified generally to sections 961 et seq. and 801 et seq. of Title 29, Labor, respectively. See Short Title notes under sections 961 and 801 of Title 29, respectively.

Community Services Act of 1974, referred to in subsec. (b), is classified to section 2701 et seq. of this title. See Short Title note under section 2701 of this title.

Emergency Employment Act of 1971, referred to in subsec. (b), was classified to section 4871 et seq. of this title.

§ 3056b. Participants without status of Federal employees; contractual requirement of workmen's compensation.

(a) Eligible individuals who are employed in any project funded under this subchapter shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of Title 5.

(b) No contract shall be entered into under this subchapter with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. (Pub. L. 89–73, title IX, § 904, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

§ 3056c. Interagency cooperation.

(a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this subchapter.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this subchapter and in promoting the identification and interests of individuals eligible for employment in projects assisted under this subchapter. (Pub. L. 89–73, title IX, § 905, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

§ 3056d. National grants or contracts and State allotments for projects.

(a) National activities based on level of activities in fiscal year ending June 30, 1975: preference in awards, equitable distribution of aggregate activities; State allotments: allotment formula, allotment percentage; number of persons aged fifty-five or over; per capita income.

(1) From sums appropriated under this subchapter for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this subchapter and under any other provision of Federal law relating to community service employment programs for older Americans in the fiscal year ending June 30, 1975. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older persons under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

(2) The Secretary shall allot for projects within each State the remainder of the sums appropriated for any fiscal year under section 3056f of this title so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of

such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) Reallotments.

The amount allotted for projects within any State under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) of this section for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Equitable distribution of assistance.

The amount apportioned for projects within each State under subsection (a) of this section shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State. (Pub. L. 89–73, title IX, § 906, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

§ 3056e. Definitions.

As used in this subchapter—

(1) the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(2) the term "eligible individual" means an individual who is fifty-five years old or over, who has a low income, and who has or would have difficulty in securing employment, except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or over shall have priority for the work opportunities provided for under this subchapter;

(3) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

(4) the term "program" means the older American community service employment program established under this subchapter.

(Pub. L. 89–73, title IX, § 907, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 724.)

§ 3056f. Authorization of appropriations.

There are authorized to be appropriated to carry out this subchapter $100,000,000 for the fiscal year ending June 30, 1976, $37,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $150,000,000 for the fiscal year ending September 30, 1977, and $200,000,000 for the fiscal year ending September 30, 1978. (Pub. L. 89–73, title IX, § 908, as added Pub. L. 94–135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 725.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3056d of this title.

Chapter 35A.—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS [New]

§§ 3061 to 3067. Repealed. Pub. L. 94–135, title I, § 113 (b), Nov. 28, 1975, 89 Stat. 725.

Sections, Pub. L. 93–29, title IX, §§ 902–908, May 3, 1973, 87 Stat. 60–64, related to community service employment for older Americans, providing as follows:

Section 3061, establishment of Older American Community Service Employment Program authority of Secretary, execution of agreements with terms and conditions for furthering purposes and goals of program, and regulations for execution of chapter provisions and costs and non-Federal share.

Section 3062, administration of community service projects: consideration of needs of localities, employment situation and skills of eligible participants, and potential projects and number and percentage of eligible individuals in local population; agency cooperation,

community service projects as part of general manpower programs, expenditure of project appropriations for manpower programs prohibited; use of services, equipment, personnel, facilities of Federal and other agencies, and cooperation with other public and private agencies in such use; community service projects: criteria for equitable participation in administration of such projects; payments, advances, reimbursement, and installments; and prohibition of delegation of functions and duties.

Section 3063, participants without status of Federal employees; contractual requirement of workmen's compensation coverage and severance benefits.

Section 3064, interagency cooperation.

Section 3065, allotment for projects: allotment formula, reallotments, and equitable distribution of assistance.

Section 3066, definitions.

Section 3067, amended Pub. L. 93–113, Title VI, § 6§4 (b), Oct. 1, 1973, 87 Stat. 417, authorization of appropriations.

Subject matter is now covered by sections 3056 to 3056f of this title.

Chapter 36.—COMPENSATION OF CONDEMNEES IN DEVELOPMENT PROGRAMS

§§ 3071 to 3074. Repealed. Pub. L. 91–646, title II, § 220 (a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907.

Sections, Pub. L. 89–117, Title IV, §§ 401–403, 404(a), Aug. 10, 1965, 79 Stat. 485, related to compensation of condemnees in development programs, providing as follows:

Section 3071, amended Pub. L. 90–19, § 22(f), May 25, 1967, 81 Stat. 27, definitions;

Section 3072, amended Pub. L. 90–19, § 22(a), May 25, 1967, 81 Stat. 26, acquisition of realty by eminent domain;

Section 3073, financing of payments in eminent domain where amount is in dispute; and

Section 3074, amended Pub. L. 90–19, § 22(a), May 25, 1967, 81 Stat. 26, relocation payments under federally assisted development programs. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of provisions not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91–646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91–646, set out as notes under sections 4621 and 4651 of this title.

Chapter 37.—COMMUNITY FACILITIES AND ADVANCE LAND ACQUISITION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5304 of this title.

§ 3102. Grants for basic water and sewer facilities.

* * * * *

(c) Project requirements; need for facilities; growth needs of area; coordination of areawide development.

No grant shall be made under this section in connection with any project unless the Secretary determines that the project is necessary to provide adequate water or sewer facilities for, and will contribute to the improvement of the health or living standards of, the people in the community to be served, and that the project is (1) designed so that an adequate capacity will be available to serve the reasonably foreseeable growth needs of the area; (2) consistent with a program meeting criteria, established by the Secretary, for a unified or officially coordinated areawide water or sewer facilities system as part of the comprehensively planned development of the area, except that prior to June 30, 1974, grants may, in the discretion of the Secretary, be made under this section when such a program for an areawide water and sewer facilities system is under active preparation, although not yet completed, if the facility or facilities for which assistance is sought can reasonably be expected to be required as a part of such program, and there is urgent need for the facility or facilities; and (3) necessary to orderly community development.

* * * * *

(As amended Pub. L. 92–213, § 6, Dec. 22, 1971, 85 Stat. 776; Pub. L. 92–335, § 7, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, § 9, Oct. 2, 1973, 87 Stat. 423.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93–117 substituted "June 30, 1974" for "September 30, 1972."

1972—Subsec. (c). Pub. L. 92–335 substituted "September 30, 1972" for "June 30, 1972".

1971—Subsec. (c). Pub. L. 92–213 substituted "June 30, 1972" for "October 1, 1971".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3108, 4519, 5153, 5303, 5316 of this title.

§ 3103. Grants for neighborhood facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3108, 4519, 5303, 5316 of this title.

§ 3108. Authorization of appropriations.

(a) There are authorized to be appropriated for each fiscal year commencing after June 30, 1965, and ending prior to July 1, 1969, not to exceed (1) $200,000,000 (or $350,000,000 in the case of the fiscal year commencing July 1, 1968) for grants under section 3102 of this title, (2) $50,000,000 for grants under section 3103 of this title, and (3) $25,000,000 for grants under section 3104 of this title. In addition, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $115,000,000 for the fiscal year commencing July 1, 1969, and not to exceed $100,000,000 for the fiscal year commencing July 1, 1970. In addition, upon the enactment of the Emergency Community Facilities Act of 1970, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970. In addition, there is authorized to be appropriated for the fiscal year commencing July 1, 1971, not to exceed $50,000,000 for grants under section 3103 of this title. In addition, there are authorized to be appropriated for the fiscal year commencing July 1, 1973, not to exceed $40,000,000 for grants under section 3103 of this title.

(b) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1974. (As amended Pub. L. 92–335, § 3, July 1,

1972, 86 Stat. 405; Pub. L. 93–117, § 8, Oct. 2, 1973, 87 Stat. 422.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–117, § 8(a), provided for neighborhood facility grant authorization of $40,000,000 for fiscal year commencing July 1, 1973.

Subsec. (b). Pub. L. 93–117, § 8(b), substituted "July 1, 1974" for "September 30, 1972."

1972—Subsec. (b). Pub. L. 92–335 substituted "September 30, 1972" for "July 1, 1972".

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453a of this title.

Chapter 38.—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec.

3123. Discrimination on the basis of sex prohibited in Federally assisted programs [New].

SUBCHAPTER III.—TECHNICAL ASSISTANCE, RESEARCH AND INFORMATION

3151a. Economic development planning [New].
- (a) Direct grants to State, city, etc.; amount; purpose; procedure; goals; annual report.
- (b) Additional assistance to economic development districts.
- (c) Compliance with review procedure.

3153. Supplemental and basic grants [New].
- (a) Authorization of appropriations; apportionment among States.
- (b) Contributions by State.
- (c) Use of funds.
- (d) Federal contribution.
- (e) Applicability of State planning process to use of funds.

SUBCHAPTER IV.—AREA AND DISTRICT ELIGIBILITY

PART C.—INDIAN ECONOMIC DEVELOPMENT

3172. Authorization of appropriations [New].

SUBCHAPTER V.—REGIONAL ACTION PLANNING COMMISSIONS

3193. Regional excess property [New].
- (a) Acquisition and disposal.
- (b) Priority of Federal cochairman; rules and regulations.
- (c) Payment of costs.
- (d) Accounting to Secretary by Federal cochairman; time; access to information.
- (e) Disposition of property unnecessary for economic development.
- (f) Exclusion of value of acquired or disposed property from computation of appropriation or authorization for appropriation.
- (g) Definitions.

3194. Energy demonstration projects and programs [New].

3195. Health and nutrition demonstration projects [New].

3196. Vocational and technical education demonstration projects [New].
- (a) Secretary authorized to make grants.
- (b) Cost limitations on grants for construction or equipment of components.
- (c) Limitations on operational costs.
- (d) Limitations on planning expenses.
- (e) Grants limited to public owned facilities.
- (f) Federal share.

SUBCHAPTER VIII.—ECONOMIC RECOVERY FOR DISASTER AREAS [NEW]

3231. Congressional statement of purpose.

3232. Disaster recovery planning.
- (a) Recovery Planning Council; designation, membership.
- (b) Review and revision of plans.
- (c) Recovery investment plan; reserve funds.

3233. Public works and development facilities grants and loans.
- (a) Funds for recovery investment plans.
- (b) Eligible entities for grants and loans.
- (c) Federal share, increase by supplementary grants; limits.
- (d) Interest rate.
- (e) Assistance resulting in relocation of establishments or divestiture of contractors prohibited.

3234. Loan guarantees.

3235. Technical assistance.
- (a) Projects for economic recovery.
- (b) Grants for federal share of administrative expenses.

3236. Authorization of appropriations.

SUBCHAPTER IX.—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE [NEW]

3241. Statement of purpose.

3242. Definitions.

3243. Grants by Secretary.
- (a) Eligible recipients; execution of development plan; use; method of payment.
- (b) Criteria for approval of plan.
- (c) Coordination of activities with regional commissions, States, etc.
- (d) Transfer of funds; availability of assistance to qualified individuals; limitation of amounts; administration by State agencies.

3244. Annual reports by recipient and Secretary.

3245. Authorization of appropriations.

SUBCHAPTER X.—JOB OPPORTUNITIES PROGRAM [NEW]

3246. Congressional statement of purpose.

3246a. Defintions.

3246b. Program authorized.
- (a) Authorization of Secretary of Commerce; comment of officials of appropriate units of general government on specific proposals.
- (b) Administration of assistance by head of department, agency, or instrumentality of Federal Government; exceptions.
- (c) Initiation of programs.
- (d) Allocation of funds; priority considerations.
- (e) Funds available for programs or projects determined by Secretaries of Commerce and Labor jointly to meet certain requirements.

3246c. Program review.

3246d. Limitations on use of funds.

3246e. Rules, regulations, and procedures.

3246f. Authorization of appropriations.

3246g. Termination date.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5153 of this title; title 15 section 636; title 19 section 2373; title 40 App. sections 205, 302; title 43 secetion 1601.

§ 3122. Rural development.

* * * * *

(b) Location of federal facilities; annual report to Congress.

Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain departmental policies and

procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7) of Title 7. The President is hereby requested to submit to the Congress not later than September 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year for all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations.

* * * * *

(As amended Pub. L. 92–419, title VI, § 601, Aug. 30, 1972, 86 Stat. 674.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–419 deleted "insofar as practicable," following "maintain" and substituted "policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7) of Title 7", for "policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities."

EX. ORD. NO. 11797. DELEGATION OF PRESIDENT'S FUNCTION OF SUBMITTING ANNUAL REPORT TO CONGRESS CONCERNING LOCATION OF NEW FEDERAL FACILITIES

Ex. Ord. No. 11797, July 31, 1974, 39 F.R. 27893; provided:

By virtue of the authority vested in me by section 901(b) of the Agricultural Act of 1970 (84 Stat. 1383) (as amended by section 601 of the Rural Development Act of 1972 (86 Stat. 674; Public Law 92–419)) [subsec. (b) of this section] and by section 301 of title 3 of the United States Code, the Secretary of Agriculture is authorized to exercise the authority vested in the President by section 901(b) of the Agricultural Act of 1970, as amended [subsec. (b) of this section], in all matters relating to reporting criteria and the preparation and submission of annual reports to the Congress concerning the location of new Federal facilities in rural areas, without approval, ratification, or other action by the President. Departments and agencies shall cooperate with the Secretary of Agriculture in the preparation of the annual reports required by section 901(b), as amended [subsec. (b) of this section].

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1609.

§ 3123. Discrimination on the basis of sex prohibited in Federally assisted programs.

No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under this chapter. (Pub. L. 92–65, title I, § 112, Aug. 5, 1971, 85 Stat. 168.)

CODIFICATION

This section was enacted as part of the Public Works and Economic Development Act of 1971 and not as part of the Public Works and Economic Development Act of 1965 which comprises this chapter.

SUBCHAPTER I.—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2985a, 3153 of this title; title 40 App., sections 202, 211, 214.

§ 3131. Direct and supplementary grants.

(a) Acquisition or development of public works and development facilities; required findings precedent to making of direct grants; supplementary grants to provide matching share funds.

Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary of Commerce (hereinafter referred to as the Secretary) is authorized—

(1) to make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

* * * * *

(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located;

(C) the area for which a project is to be undertaken has an approved overall economic development program as provided in section 3142(b)(10) of this title and such project is consistent with such program; and

(D) in the case of a redevelopment area so designated under section 3161(a)(6) of this title, the project to be taken will provide immediate useful work to unemployed and underemployed persons in that area;

* * * * *

(c) Proportion of supplementary grant funds to total project cost; rules and regulations; maximum grants; required non-Federal share.

The amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 per centum of such cost, except that in the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below such per centum or may waive the non-Federal share. In the case of any State or political subdivision thereof which the Secretary determines has exhausted its effective taxing and borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or may waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 3161(a)(6) of this title. Supplementary grant shall be made by the Secretary, in accordance with such regulations as he shall prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this chapter to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs. Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be

used for the sole purpose of increasing the Federal contribution to specific projects in redevelopment areas under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law. The term "designated Federal grant-in-aid programs," as used in this subsection, means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purposes of this chapter, designate as eligible for allocation of funds under this section. In determining the amount of any supplementary grant available to any project under this section, the Secretary shall take into consideration the relative needs of the area, the nature of the project to be assisted, and the amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

* * * * *

(As amended Pub. L. 92–65, title I, § 102, Aug. 5, 1971, 85 Stat. 166.)

AMENDMENTS

1971—Subsec. (a)(1). Pub. L. 92–65, § 102(a), added subpar. (D).

Subsec. (c). Pub. L. 92–65, § 102(b), added provisions authorizing the Secretary to reduce the non-Federal share below the prescribed per centum or to waive the non-Federal share in the case of a supplementary grant for a project in a redevelopment area designated as such under section 3161(a)(6) of this title, when he determines that the state or the political subdivision thereof has exhausted its effective taxing and borrowing capacity.

SHORT TITLE OF 1971 AMENDMENT

Section 101 of Pub. L. 92–65 provided that: "This title [which enacted section 3123 of this title and amended this section and sections 3135, 3141, 3152, 3161, 3162, 3171, 3188a, and 3191 of this title and provisions set out as a note under section 3162 of this title] may be cited as the 'Public Works and Economic Development Act Amendments of 1971'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3161, 3171, 3220, 3221, 3222, 3223, 4519 of this title.

§ 3132. Grants for operation of health projects; amounts for first and second fiscal years of operation; efficient management practices of facilities as prerequisite.

For each of the fiscal years ending June 30, 1975, and June 30, 1976, not to exceed $30,000,000 of the funds authorized to be appropriated under section 3135 of this title for each such fiscal year shall be available for grants for operation of any health project funded under this subchapter after the date of enactment of this section. Such grants may be made up to 100 per centum of the estimated cost of the first fiscal year of operation, and up to 100 percentum of the deficit in funds available for operation of the facility during the second fiscal year of operation. No grant shall be made for the second fiscal year of operation of any facility unless the agency operating such facility has adopted a plan satisfactory to the Secretary of Health, Education, and Welfare, providing for the funding of operations on a permanent basis. Any grant under this section shall be made upon the condition that the operation of the facility will be conducted under efficient management practices designed to obviate operating deficits, as determined by the Secretary of Health, Education, and Welfare. (As amended Pub. L. 93–423, § 2, Sept. 27, 1974, 88 Stat. 1158.)

REFERENCES IN TEXT

"The date of enactment of this section" referred to in text, probably means the date of enactment of Pub. L. 93–423, which was approved Sept. 27, 1974.

AMENDMENTS

1974—Pub. L. 93–423 substituted provisions relating to the availability of grants for operation of health projects funded under this subchapter for provisions relating to grants to areas designated as areas of substantial unemployment, and review of eligibility of areas so designated.

§ 3134. Repealed. Pub. L. 94–188, title I, § 123, Dec. 31, 1975, 89 Stat. 1086.

Section, Pub. L. 89–136, title I, § 104, Aug. 26, 1965, 79 Stat. 554, related to the ineligibility of Appalachian region projects for appropriations under this subchapter.

§ 3135. Authorization of appropriations.

There is hereby authorized to be appropriated to carry out this subchapter not to exceed $500,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1971, and not to exceed $800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973, and not to exceed $200,000,000 for the fiscal year ending June 30, 1974, not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976. Any amounts authorized for the fiscal year ending June 30, 1972, under this section but not appropriated may be appropriated for the fiscal year ending June 30, 1973. Not less than 25 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and not less than 10 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975 and June 30, 1976, under authority of the preceding sentences shall be expended in redevelopment areas designated as such under section 3161(a)(6) of this title. (As amended Pub. L. 92–65, title I, § 103, Aug. 5, 1971, 85 Stat. 166; Pub. L. 93–46, § 1, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, § 1, Sept 27, 1974, 88 Stat. 1158.)

AMENDMENTS

1974—Pub. L. 93–423 added "not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976," following "for the fiscal year ending June 30, 1974,", and added "and not less than 10 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975 and June 30, 1976," following "and June 30, 1974,".

1973—Pub. L. 93–46 authorized appropriations of not exceeding $200,000,000 for fiscal year ending June 30, 1974, and made the percentage limitation applicable to fiscal year 1974 appropriation for expenditure in redevelopment areas designated under section 3161(a)(6) of this title.

1971—Pub. L. 92–65 authorized appropriations of not exceeding $800,000,000 per fiscal year for the fiscal years ending June 30, 1972 and June 30, 1973, and further provided that amounts authorized for the fiscal year ending June 30, 1972 but not appropriated, may be appropriated for the fiscal year ending June 30, 1973, and that out of appropriations made for the fiscal years ending June 30, 1972 and June 30, 1973, not less than 25 percent and not more than 35 percent be spent in redevelop-

ment areas designated under section 3161(a)(6) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3132 of this title.

SUBCHAPTER II.—LOANS, LOAN GUARANTEES, AND ECONOMIC DEVELOPMENT REVOLVING FUND

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2985a, 3153 of this title.

§ 3141. Public works and development facility loans.

* * * * *

(c) Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 3142 of this title: *Provided,* That annual appropriations for the purpose of purchasing evidences of indebtedness, making and participating in loans, and guaranteeing loans shall not exceed $170,000,000, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976.

* * * * *

(As amended Pub. L. 92–65, title I, § 104, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, § 2, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, § 4(a), Sept. 27, 1974, 88 Stat. 1158.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–423 added ", and shall not exceed $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976." following "year ending June 30, 1974".

1973—Subsec. (c). Pub. L. 93–46 authorized appropriation of $55,000,000 for fiscal year ending June 30, 1974, for purchase of evidences of indebtedness.

1971—Subsec. (c). Pub. L. 92–65 substituted "June 30, 1973" for "June 30, 1971".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3143, 3171, 3211, 3220 to 3223 of this title; title 15 section 636.

§ 3142. Business loans and loan guarantees.

(a) Permissible guarantees; guarantee maximums.

(1) The Secretary is authorized to aid in financing, within a redevelopment area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences of indebtedness, (B) making loans (which for purposes of this section shall include participation in loans), (C) guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

(2) The Secretary is authorized to aid in financing any industrial or commercial activity within a redevelopment area by (A) making working capital loans, (B) guaranteeing working capital loans made to private borrowers by private lending institutions upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan, (C) guaranteeing rental payments of leases for buildings and equipment, except that no such guarantee shall exceed 90 per centum of the remaining rental payments required by the lease.

(b) Terms and conditions.

Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

* * * * *

(7) Subject to section 3211(5) of this title, no loan or guarantee, including renewals or extension thereof, may be made hereunder for a period exceeding twenty-five years and no evidences of indebtedness maturing more than twenty-five years from date of purchase may be purchased hereunder: *Provided,* That the foregoing restrictions on maturities shall not apply to securities or obligations received by the Secretary as a claimant in bankruptcy or equitable reorganization or as a creditor in other proceedings attendant upon insolvency of the obligor.

* * * * *

(9) Loan assistance (other than for a working capital loan) shall not exceed 65 per centum of the aggregate cost to the applicant (excluding all other Federal aid in connection with the undertaking) of acquiring or developing land and facilities (including machinery and equipment), and of constructing, altering, converting, rehabilitating, or enlarging the building or buildings of the particular project, and shall, among others, be on the condition that—

* * * * *

(As amended Pub. L. 93–423, § 4(b), Sept. 27, 1974, 88 Stat. 1158.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–423, § 4(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(7). Pub. L. 93–423, § 4(b)(2), added "or guarantee" following "no loan".

Subsec. (b)(9). Pub. L. 93–423, § 4(b)(3), added "(other than for a working capital loan)" following "Loan assistance".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2985a, 3131, 3141, 3142–1, 3143, 3161, 3162, 3171, 3211, 3220 to 3223 of this title; title 19 section 2373.

§ 3142–1. Loans for additions or alterations to equipment, facilities, or operating methods for compliance of small business concern with applicable occupational safety and health standards.

Loans may also be made or guaranteed for the purposes set forth in section 636(b)(5) of Title 15, pursuant to the provisions of section 3142 of this title. (As amended Pub. L. 93–237, § 2(c), Jan. 2, 1974, 87 Stat. 1024.)

AMENDMENTS

1974—Pub. L. 93-237 substituted "section 636(b)(5)" for "section 636(b)(6)".

SUBCHAPTER III.—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

§ 3151. Technical assistance.

* * * * *

(b) Grants covering administrative expenses; use of funds in conjunction with other grants.

The Secretary is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of organizations which he determines to be qualified to receive grants-in-aid under subsection (a) hereof, except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, such as urban planning grants authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized under the Federal Aid Highway Act of 1962, to assure adequate and effective planning and economical use of funds.

* * * * *

(As amended Pub. L. 93-46, § 3(a), June 18, 1973, 87 Stat. 96.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-46 provided for payment up to 100 per centum of administrative expenses of Indian tribes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3151a, 3152, 3211 of this title.

§ 3151a. Economic development planning.

(a) Direct grants to State, city etc.; amount; purpose; procedure; goals; annual report.

The Secretary is authorized, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including a redevelopment area or an economic development district), to make direct grants to such State, city, other political subdivision, or organization to pay up to 80 per centum of the cost for economic development planning. The planning for cities, other political subdivisions, and sub-State planning and development organizations (including redevelopment areas and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes. Such planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program. Any overall State economic development planning assisted under this section shall be conducted cooperatively by the State, cities and other political subdivisions, and economic development organizations (including redevelopment areas and economic development districts) located in whole or in part within such State, and such State planning shall incorporate the goals and objectives of local and economic development district planning. Any overall State economic development planning shall be a part of a comprehensive planning process that shall consider the provision of public works to stimulate and channel development, economic opportunities and choices for individuals; to support sound land use, to enhance and protect the environment including the conservation and preservation of open spaces and environmental quality, to provide public services, and to balance physical and human resources through the management and control of physical development. The assistance available under this section may be provided in addition to assistance available under section 3151(b) of this title but shall not supplant such assistance and shall be available to develop an annual inventory of specific recommendations for assistance under section 3153 of this title. Each State receiving assistance under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

(b) Additional assistance to economic development districts.

In addition, the Secretary is authorized to assist economic development districts in—

(1) providing technical assistance (other than by grant) to local governments within the district; and

(2) carrying out any review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968, if such district has been designated as the agency to conduct such review.

(c) Compliance with review procedure.

The planning assistance authorized under this subchapter shall be used in accordance with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968 and shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds. (Pub. L. 89-136, title III, § 302, as added Pub. L. 93-423, § 5(b), Sept. 27, 1974, 88 Stat. 1159.)

REFERENCES IN TEXT

Title IV of the Intergovernmental Cooperation Act of 1968, referred to in subsecs. (b)(2) and (c), is Title IV of Pub. L. 90-577, Oct. 16, 1968, 82 Stat. 1103, 1104, and is classified to section 4231 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3152, 3153 of this title.

§ 3152. Authorization of appropriations.

(a) There is hereby authorized to be appropriated $25,000,000 annually for the purpose of sections 3151 and 3151a of this title, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1969, $50,000,000 per fiscal year for the fiscal years ending June 30, 1970, June 30, 1971, June 30, 1972, and June 30, 1973, and $35,000,000 for the fiscal year

ending June 30, 1974, and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976.

(b) Not to exceed $15,000,000 in each of the fiscal years ending June 30, 1975, and June 30, 1976, of the sums authorized to be appropriated under subsection (a) of this section, shall be available to make grants to States. (Pub. L. 89–136, title III, § 303, formerly § 302, Aug. 26, 1965, 79 Stat. 560, amended Pub. L. 91–123, title III, § 303, Nov. 25, 1969, 83 Stat. 219; Pub. L. 91–304, § 1(c), July 6, 1970, 84 Stat. 375; Pub. L. 92–65, title I, § 105, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, § 3(b), June 18, 1973, 87 Stat. 96; renumbered and amended Pub. L. 93–423, § 5(a), (c), Sept. 27, 1974, 88 Stat. 1159, 1160.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–423, § 5(c), designated existing provisions as subsec. (a), and as so designated, substituted "sections 3151 and 3152a of this title" for "this subchapter", and added "and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976." following "year ending June 30, 1974".

Subsec. (b). Pub. L. 93–423, § 5(c), added subsec. (b).

1973—Pub. L. 93–46 authorized appropriation of $35,000,000 for the fiscal year ending June 30, 1974.

1971—Pub. L. 92–65 authorized appropriation of $50,000,000 for the fiscal years ending June 30, 1972 and June 30, 1973.

§ 3153. Supplemental and basic grants.

(a) Authorization of appropriations; apportionment among States.

There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976, for apportionment by the Secretary among the States for the purpose of supplementing or making grants and loans authorized under subchapters I, II, and IV of this chapter. Such funds shall be apportioned among the States in the ratio which all grants made under subchapter I of this chapter since August 26, 1965, in each State bear to the total of all such grants made in all the States since August 26, 1965.

(b) Contributions by State.

Funds apportioned to a State pursuant to subsection (a) of this section shall be available for supplementing or making such grants or loans if the State makes a contribution of at least 25 per centum of the amount of such grant or loan in each case. Funds apportioned to a State under subsection (a) of this section shall remain available to such State until obligated or expended by it.

(c) Use of funds.

Funds apportioned to a State pursuant to this section may be used by the Governor in supplementing grants or loans with respect to any project or assistance authorized under subchapters I, II, or IV of this chapter and approved by the Secretary after July 1, 1974. Such grants may be used to reduce or waive the non-Federal share otherwise required by this chapter, subject to the requirements of subsection (b) of this section.

(d) Federal contribution.

In the case of any grant or loan for which all or any portion of the basic Federal contribution to the project under this chapter is proposed to be made with funds available under this section, no such Federal contribution shall be made until the Secretary of Commerce certifies that such project meets all of the requirments of this chapter and could be approved for Federal contributions under this chapter if funds were available under this chapter (other than section 3188a of this title) for such project. Funds may be provided for projects in a State under this section only if the Secretary determines that the level of Federal and State financial assistance under this chapter (other than section 3188a of this title) and under Acts other than this chapter, for the same type of projects in the State, will not be diminished in order to substitute funds authorized by this section.

(e) Applicability of State planning process to use of funds.

After June 30, 1975, funds apportioned to a State pursuant to this section shall be used by the Governor in a manner which is consistent with the State planning process assisted under section 3151a of this title, if such planning process has been established in such State. (Pub. L. 89–136, title III, § 304, as added Pub. L. 93–423, § 5(d), Sept. 27, 1974, 88 Stat. 1160.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3151a of this title.

SUBCHAPTER IV.—AREA AND DISTRICT ELIGIBILITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3153, 3232, 3242 of this title.

PART A.—REDEVELOPMENT AREAS

§ 3161. Area eligibility.

(a) Criteria for determining eligibility areas; unemployment; median family income; Indian lands; loss of major source of employment.

The Secretary shall designate as "redevelopment areas"—

* * * * *

(2) those additional areas which have a median family income not in excess of 50 per centum of the national median, as determined by the most recent available statistics for such areas;

(3) those additional Federal or State Indian reservations or trust or restricted Indian-owned land areas which the Secretary, after consultation with the Secretary of the Interior or an appropriate State agency, determines manifest the greatest degree of economic distress on the basis of unemployment and income statistics and other appropriate evidence of economic underdevelopment; *Provided, however,* That uninhabited Federal or State Indian reservations or trust or restricted Indian-owned land areas may be designated where such designation would permit assistance to Indian tribes, with a direct beneficial effect on the economic well-being of Indians;

* * * * *

(6) those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

(A) a large concentration of low-income persons;

(B) rural areas having substantial outmigration;

(C) substantial unemployment; or

(D) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 3131 of this title. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 3171(a)(1)(B) of this title;

(7) those areas where per capita employment has declined significantly during the next preceding ten-year period for which appropriate statistics are available:

(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, were areas of substantial unemployment during the preceding calendar year.

* * * * *

(As amended Pub. L. 92–65, title I, § 106, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–423, §§ 3(a), (6), Sept. 27, 1974, 88 Stat. 1158, 1161.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–423, § 6, added proviso relating to designation of uninhabited Federal or State reservations or trust or restricted Indian owned areas.

Subsec. (a)(8). Pub. L. 93–423, § 3(a), added subsec. (a)(8).

1971—Subsec. (a)(2). Pub. L. 92–65, § 106(1), substituted "50 per centum" for "40 per centum".

Subsec. (a)(6). Pub. L. 92–65, § 106(2), broadened the definition of special impact areas to include communities or neighborhoods without regard to political or other subdivisions or boundaries, having conditions under subpars. (A) to (D), and provided that such areas shall not be subject to the requirements of section 3131(a)(1)(A), (B), and (C) of this title or be eligible to meet the requirements of section 3171(a)(1)(B) of this title, and omitted reference to section 2763 et seq. of this title.

Subsec. (a)(7). Pub. L. 92–65, § 106(2), added subsec. (a)(7).

AREAS DEEMED TO BE DESIGNATED AS AREAS OF SUBSTANTIAL UNEMPLOYMENT

Section 3(b) of Pub. L. 93–423 provided that: "Any area of substantial unemployment so designated under authority of section 102 of title I of the Public Works and Economic Development Act of 1965 [section 3132 of this title] which has not had such designation terminated before the date of enactment of this section [Sept. 27, 1974] shall be deemed for the purposes of such Act [this chapter] to be such an area designated under section 401(a)(8) of such Act [subsec. (a)(8) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2985a, 3131, 3135, 3162, 3171, 3225, 3246a of this title; title 19 section 2371.

§ 3162. Annual review of area eligibility; termination of eligibility; notification of change of classification.

The Secretary shall conduct an annual review of all areas designated in accordance with section 3161 of this title, and on the basis of such reviews shall terminate or modify such designation whenever such an area no longer satisfies the designation requirements of section 3161 of this title, but in no event shall such a designation of an area be terminated prior to the expiration of the third year after the date such area was so designated. No area previously designated shall retain its designated status unless it maintains a currently approved overall economic development program in accordance with section 3142(b)(10) of this title. No termination of eligibilty shall (1) be made without thirty days' prior notification to the area concerned, (2) affect the validity of any application filed, or contract or undertaking entered into, with respect to such area pursuant to this chapter prior to such termination, (3) prevent any such area from again being designated a redevelopment area under section 3161 of this title if the Secretary determines it to be eligible under such section, or (4) be made in the case of any designated area where the Secretary determines that an improvement in the unemployment rate of a designated area is primarily the result of increased employment in occupations not likely to be permanent. The Secretary shall keep the departments and agencies of the Federal Government, and interested State or local agencies, advised at all times of any changes made hereunder with respect to the classification of any area. (As amended Pub. L. 92–65, title I, § 107, Aug. 5, 1971, 85 Stat. 167.)

AMENDMENTS

1971—Pub. L. 92–65 substituted provisions authorizing the Secretary to terminate or modify the designation of an area when such area does not satisfy the requirements of section 3161 of this title and that such designation may not be terminated within three years of designation for provisions authorizing the Secretary to terminate or modify the designation in accordance with objective standards to be prescribed by him by regulation.

TERMINATION OR MODIFICATION OF DESIGNATION AS REDEVELOPMENT AREA AFTER MAY 1, 1970 AND BEFORE JUNE 1, 1976

Pub. L. 91–304, § 2, July 6, 1970, 84 Stat. 375, as amended by Pub. L. 92–65, title I, § 111, Aug. 5, 1971, 85 Stat. 168; Pub. L. 93–46, § 6(a), June 18, 1973, 87 Stat. 97; Pub. L. 93–423, § 10, Sept. 27, 1974, 88 Stat. 1162, provided that: "Notwithstanding section 402 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) [this section], no area designated as a redevelopment area for the purposes of such Act [see Short Title note set out under section 3121 of this title] shall have such designation terminated or modified in accordance with such section after May 1, 1970, and before June 1, 1976, unless the local governing body of the county qualified under existing criteria for de-designation specifically requests de-designation action."

Pub. L. 93–46, § 6(b), June 18, 1973, 87 Stat. 97, provided that: "The amendment made by subsection (a) of this section [to provisions set out as preceding note] shall take effect May 31, 1972, and any area designated as a redevelopment area for the purposes of the Public Works and Economic Development Act of 1965, as amended [this chapter], on or before that date and which has had such designation terminated or modified in accordance with section 402 of such Act of 1965 [this section] on or before the date of enactment of this Act [June 18, 1973] shall, for the purposes of such Act of 1965 [this chapter], be held and considered as a designated redevelopment area during such period and shall continue to be designated as a redevelopment area until otherwise terminated or modified in accordance with the provisions of section 402 of such Act of 1965 [this section] and section 2 of the Act of July 6, 1970, as amended by this Act (Public Law 91–304) [provisions of note set out above]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3161 of this title.

PART B.—ECONOMIC DEVELOPMENT DISTRICTS

§ 3171. District eligibility.

(a) Authority to designate economic development districts; criteria; economic development centers; increases of grants.

In order that economic development projects of broader geographical significance may be planned and carried out the Secretary is authorized—

(1) to designate appropriate "economic development districts" within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

* * * * *

(B) the proposed district contains at least one redevelopment area;

* * * * *

(g) Authorization of appropriations.

There is hereby authorized to be appropriated not to exceed $50,000,000 for the fiscal year ending June 30, 1967, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and not to exceed $45,000,000 per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for financial assistance extended under the provisions of subsection (a) (3) and (a) (4) hereof.

(h) Furnishing of overall economic development program to appropriate regional commission.

Each economic development district designated by the Secretary under this section shall as soon as practicable after the date of enactment of this section or after its designation provide that a copy of the district overall economic development program be furnished to the appropriate regional commission established under subchapter V of this chapter, if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such proposed district is within the Appalachian region.

(i) Financial assistance to parts of an economic development district not within a redevelopment area; manner and extent of assistance.

The Secretary is authorized to provide the financial assistance which is available to a redevelopment area under this chapter to those parts of an economic development district which are not within a redevelopment area, when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this chapter for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section. (As amended Pub. L. 92–65, title I, § 108, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, § 4, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, § 7, Sept. 27, 1974, 88 Stat. 1161.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (h), is Pub. L. 89–4 which is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

"The date of enactment of this section" referred to in subsec. (h), probably means the date of enactment of Pub. L. 93–423, which was approved Sept. 27, 1974.

CODIFICATION

Subsecs. (h) and (i) were in the original, designated as (i) and (j) respectively, and have been editorially changed. Original subsec. (h) of section 403 of Pub. L. 89–136 is set out as a note under this section.

AMENDMENTS

1974—Subsec. (a) (1) (B). Pub. L. 93–423, § 7(a), substituted "at least one redevelopment area" for "two or more redevelopment areas".

Subsec. (g). Pub. L. 93–423, § 7(c), substituted "per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976," for "for the fiscal year ending June 30, 1974,".

Subsecs. (h), (i). Pub. L. 93–423, § 7(b), added subsec. (h) and (i).

1973—Subsec. (g). Pub. L. 93–46 authorized appropriation of $45,000,000 for the fiscal year ending June 30, 1974.

1971—Subsec. (g). Pub. L. 92–65 extended the authorization of appropriations from the fiscal year ending June 30, 1971 to June 30, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3143, 3161, 3211, 3220 to 3223, 3225 of this title.

PART C.—INDIAN ECONOMIC DEVELOPMENT

§ 3172. Authorization of appropriations.

In order to assure a minimum Federal commitment to alleviate economic distress of Indians, in addition to their eligibility for assistance with funds authorized under other parts of this chapter, there are authorized to be appropriated not to exceed $25,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of providing assistance under this chapter to Indian tribes. Such sums shall be in addition to all other funds made available to Indian tribes under this chapter. (Pub. L. 89–136, title IV, § 404, as added Pub. L. 93–423, § 8, Sept. 27, 1974, 88 Stat. 1162.)

SUBCHAPTER V.—REGIONAL ACTION PLANNING COMMISSIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3171, 3232 of this title.

§ 3181. Economic development regions; required findings precedent to designation of region by Secretary; alteration of geographical area.

(a) The Secretary is authorized to designate appropriate "economic development regions" within the United States with the concurrence of the States in which such regions will be wholly or partially located if he finds (A) that there is a relationship between the areas within such region geographically, culturally, historically, and economically, (B) that with the exception of Alaska and Hawaii, and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas the region is within contiguous States, and (C) upon consideration of the following matters, among others, that the region has lagged behind the whole Nation in economic development:

* * * * *

(As amended Pub. L. 94–188, title II, § 209(a), Dec. 31, 1975, 89 Stat. 1091.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–188 added reference to Commonwealth of Puerto Rico, Virgin Islands, California and Texas.

SHORT TITLE OF 1975 AMENDMENTS

Section 1 of Pub. L. 94–188 provided: "That this Act [which enacted sections 3194–3196 of this title and sections 225 and 303 of the Appendix to Title 40, amended this section and sections 3182, 3188a and 3192 of this title, and sections 2, 101, 102, 105–107, 201, 202, 205, 207, 211, 214, 223, 224, 302, 401 and 405 of the Appendix to Title 40, repealed section 3134 of this title, and enacted provisions set out as notes under this section and section 3183 of this title, and enacted provisions set out as notes under this section and section 3183 of this title, and sections 1, 2 and 201 of the Appendix of Title 40] may be cited as the 'Regional Development Act of 1975'."

Section 201 of Pub. L. 94–188 provided that: "This title [which enacted sections 3194–3196 of this title, amended this section and sections 3182, 3188a, and 3192 of this title, and enacted provisions set out as note under section 3183 of this title] may be cited as the 'Regional Action Planning Commission Improvement Act of 1975'."

§ 3182. Regional commissions.

* * * * *

(b) Membership; appointment of Federal cochairman; election of State cochairman.

Each such commission shall be composed of one Federal member, hereinafter referred to as the "Federal cochairman", appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the region. Each State member shall be the Governor. The State members of the commission shall elect a cochairman of the commission from among their number for a term of not less than one year.

(c) Voting; consultation with interested Federal departments and agencies.

Decisions by a regional commission shall require the affirmative vote of the Federal cochairman and of a majority, or at least one if only two, of the State members. In matters coming before a regional commission, the Federal cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter. No decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.

(d) Alternate members; appointment and voting.

Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal cochairman of each regional commission. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State of [1] Federal cochairman for which he is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in the last sentence of subsection (c) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

* * * * *

(f) Alaska, Hawaii, California and Texas regions.

If the Secretary finds that the State of Alaska or the State of Hawaii or the State of California or the State of Texas meet the requirements for an economic development region, he may establish a Commission for any such State in a manner agreeable to him and to the Governor of the affected State. (As amended Pub. L. 94–188, title II, §§ 208, 209(b), Dec. 31, 1975, 89 Stat. 1091.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–188, § 208(a) substituted provision that each state member shall be the Governor for provision that each state member may be the Governor, or his designee, or such other person as may be provided by the law of the state which he represents, and added provision that the term of the office of the cochairman shall be for not less than a year.

Subsec. (c). Pub. L. 94–188, § 208(b), added provision that no decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.

Subsec. (d). Pub. L. 94–188, § 208(c), (d), substituted provision that each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff for provision that each state member of a regional commission shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the state which he represents and added provisions that a state alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the state members is required to be present, and that commission power or responsibility may not be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

Subsec. (f). Pub. L. 94–188, § 209(b), added reference to California and Texas, and substituted "for any such State" for "for either State".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3193, 3246c of this title; title 5 section 5334.

§ 3183. Functions of Commission.

(a) Activities.

In carrying out the purposes of this chapter, each Commission shall with respect to its region—

* * * * *

(7) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, district, and local planning in the region;

* * * * *

(As amended Pub. L. 93–423, § 9(a), Sept. 27, 1974, 88 Stat. 1162.)

AMENDMENTS

1974—Pub. L. 93–423 added "district," after "other Federal, State,".

REGIONAL ECONOMIC DEVELOPMENT PLAN; SUBMITTAL TO CONGRESSIONAL COMMITTEES

Section 207 of Pub. L. 94–188, title II, Dec. 31, 1975, 89 Stat. 1091, provided that: "Each regional commission established pursuant to title V of the Public Works and Economic Development Act of 1965 [this subchapter], shall submit to the Committees on Public Works of the Senate and House of Representatives within one hundred and twenty days after enactment of this Act [Dec. 31,

[1] So in original. Probably should be "or".

1975] the Regional Economic Development Plan required under section 503(a)(2) of the Public Works and Economic Development Act of 1965 [subsec. (a)(2) of this section]."

REGIONAL COMISSION FOR REGION BORDERING MEXICO, TEXAS, NEW MEXICO, ARIZONA, AND CALIFORNIA

Section 209(c) of Pub. L. 94–188, title II, Dec. 31, 1975, 89 Stat. 1092, provided that: "It is the intent of Congress that the Secretary of Commerce acting under authority of title V of the Public Works and Economic Development Act of 1965 [this subchapter] should invite and encourage the formation of a regional commission for the region along the border with Mexico in the States of Texas, New Mexico, Arizona, and California."

EX. ORD. NO. 11386. COORDINATION OF ACTIVITIES OF REGIONAL COMMISSIONS AND FEDERAL GOVERNMENT RELATING TO REGIONAL ECONOMIC DEVELOPMENT AND ESTABLISHMENT OF FEDERAL ADVISORY COUNCIL ON REGIONAL ECONOMIC DEVELOPMENT

For revocation of Executive Order No. 11386, to the extent that it pertained to the Federal Field Committee for Development Planning in Alaska, see Ex. Ord. No. 11608, July 19, 1971, 36 F.R. 13367, set out as a note under section 3191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3190, 3211 of this title.

§ 3185. Technical and planning assistance to regional commissions.

(a) Staff cooperation; contracts; grants; implementation of programs.

* * * * *

(2) In carrying out their functions under this chapter the commissions are authorized to engage in planning, investigations, studies, demonstration projects, training programs, and the payment of administrative expenses to sub-State planning and development organizations (including economic development districts), which will further the purposes of this chapter and which have been approved by the Secretary. Such activities may be carried out by the commissions through the payment of funds to departments, agencies, or instrumentalities of the Federal Government, or through the employment of private individuals, partnerships, firms, or corporations, or suitable institutions under contracts entered into for such purposes or through grants-in-aid to agencies of State or local governments. In the case of demonstration projects and training programs, to the maximum extent possible, such projects and programs shall be carried out through departments, agencies, or instrumentalities of the Federal Government or of State or local governments.

* * * * *

(As amended Pub. L. 93–423, § 9(b), Sept. 27, 1974, 88 Stat. 1162.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–423 substituted "training programs, and the payment of administrative expenses to sub-State planning and development organizations (including economic development districts)," for "and training programs".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3188a of this title.

§ 3188a. Supplements to Federal grant-in-aid programs.

* * * * *

(d) Authorization of appropriations.

(1) There are authorized to be appropriated to the Secretary to carry out this subchapter, for the two-fiscal-year period ending June 30, 1971, to be available until expended, not to exceed $225,000,000; and for the two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000; for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000; for the fiscal year ending June 30, 1975, to be available until expended, $150,000,000; for the fiscal year ending June 30, 1976, to be available until expended, $200,000,000; for the transition quarter ending September 30, 1976, to be available until expended, $50,000,000; and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000. After deducting such amounts as are authorized to carry out subsections (a)(1) and (b) of section 3185 of this title, the Secretary shall apportion the remainder of the sums appropriated under this authorization for any fiscal year among the regional commissions which have been established for more than two fiscal years.

(2) There are authorized to be appropriated to the Secretary as are necessary for the management and authorized activities under this subchapter of any new commissions for their first two full fiscal years, for the fiscal year ending June 30, 1976, to be available until expended, not to exceed $5,000,000; for the transition quarter ending September 30, 1976, to be available until expended, not to exceed $1,250,000; and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed $5,000,000.

* * * * *

(As amended Pub. L. 92–65, title I, § 109, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, § 5, June 18, 1973, 87 Stat. 97; Pub. L. 93–423, § 9(c), Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94–188, title II, § 202, Dec. 31, 1975, 89 Stat. 1087.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–188 designated existing provisions as par. (1), and in par. (1) as so designated, increased the authorization of appropriation for the fiscal year ending June 30, 1976 from $150,000,000 to $200,000,000, added authorization of appropriations for the transition quarter ending Sept. 30, 1976 and for fiscal year ending Sept. 30, 1977, in provisions relating to distribution of appropriated funds substituted provisions that the remainder be apportioned among the regional commissions which have been established for more than two fiscal years for provisions that such apportionment be made to the regional commissions with maximum and minimum limits on amounts for any one commission and that all amounts appropriated under this authorization for any fiscal year be apportioned by the Secretary to the commissions prior to the end of the fiscal year for which appropriated, and added par. (2).

1974—Subsec. (d). Pub. L. 93–423 substituted "for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, to be available until expended, $150,000,000." for "and for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000."

1973—Subsec. (d). Pub. L. 93–46 authorized appropriation of $95,000,000 for the fiscal year ending June 30, 1974, to be available until expended.

1971—Subsec. (d). Pub. L. 92–65 added provision authorizing to be appropriated $305,000,000 to the Secretary for the two-fiscal-year period ending June 30, 1973, to be available until expended.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3153, 3192, 3194 of this title.

§ 3190. Coordination of activities between Secretary and Federal cochairmen in making grants and loans.

(a) The Secretary shall coordinate his activities in making grants and loans and providing technical assistance under this chapter with those of each of the regional commissions (acting through the Federal and State cochairmen) established under this chapter in making grants and providing technical assistance under this subchapter, and each of such regional commissions shall coordinate its activities in making grants and providing technical assistance under this subchapter with those activities of the Secretary under this chapter.

(b) Each regional commission established under this chapter shall give due consideration in carrying out its activities under paragraphs (2) and (7) of section 3183(a) of this title to the activities of other Federal, State, local, and sub-State (including economic development districts) planning agencies in the region. (As amended Pub. L. 93–423, § 9(d), Sept. 27, 1974, 88 Stat. 1162.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–423 designated existing provisions as subsec. (a), and as so designated, substituted "and providing technical assistance under this chapter" for "under subchapters I and II of this chapter", "regional commissions (acting through the Federal and State cochairmen) established under this chapter in making grants and providing technical assistance under this subchapter" for "Federal cochairmen in making grants under this subchapter", and "each of such regional commissions shall coordinate its activities in making grants and providing technical assistance under this subchapter with those activities of the Secretary under this chapter" for "each Federal cochairman shall coordinate his activities in making grants under this subchapter with those of the Secretary in making grants and loans under subchapters I and II of this chapter".

Subsec. (b). Pub. L. 93–423 added subsec. (b).

§ 3191. Federal Field Committee for Development Planning in Alaska; authorization of appropriations; establishment of regional commission for Alaska.

There is hereby authorized to be appropriated not to exceed $500,000 for the two-fiscal-year period ending June 30, 1973, to continue the Federal Field Committee for Development Planning in Alaska for the purpose of planning economic development programs and projects in Alaska in cooperation with the government of the State of Alaska. Nothing contained in this section shall be construed as precluding the establishment of a regional commission for Alaska. (As amended Pub. L. 92–65, title I, § 110, Aug. 5, 1971, 85 Stat. 167.)

AMENDMENTS

1971—Pub. L. 92–65 extended authorization of appropriation of $500,000 for the two-fiscal-year period ending June 30, 1973.

EX. ORD. NO. 11608. TERMINATION OF FEDERAL FIELD COMMITTEE FOR DEVELOPMENT PLANNING IN ALASKA

Ex. Ord. No. 11608, July 19, 1971, 36 F.R. 13367, provided: By virtue of the authority vested in me as President of the United States, Executive Order No. 11182 of October 2, 1964, as amended, is revoked and the Federal Field Committee for Development Planning in Alaska established thereby is abolished. Executive Order No. 11386 of December 28, 1967 [set out as a note under section 3188 of this title], to the extent that it pertains to the Federal Field Committee for Development Planning in Alaska, is revoked. The Secretary of Commerce shall make such arrangements as may be necessary relating to the termination of the Committee.

RICHARD NIXON.

§ 3192. Regional transportation systems.

(a) Investigation and studies of needs of economic development regions.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of economic development regions established under this subchapter. Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting the purposes of this chapter. The information gathered from these studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

(b) Grants.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks and to make grants for the construction, purchase of equipment, and operation (including payment of operating deficits) for transportation demonstration projects. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this subchapter and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

(c) Cost limitations.

No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 per centum of such cost. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities. Notwithstanding any other provision of law, funds authorized under this section may be used to increase the Federal share of any such project to 80 per centum of the cost of such facilities.

(d) Limits of annual expenditure.

Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 3188a of this title shall be expended in any one fiscal year for the purpose of carrying out this section. (As amended Pub. L. 94–188, title II, § 203, Dec. 31, 1975, 89 Stat. 1087.)

AMENDMENTS

1975—Pub. L. 94–188 authorized each regional commission to conduct studies and investigations of the transportation needs of the region, to make grants for planning transportation demonstration projects and up to eighty percent of the cost of construction, purchase of equipment, and operation of transportation demonstration projects, and placed a limit of $5,000,000 on the funds apportioned to each region to be expended in any fiscal year to carry out this section.

§ 3193. Regional excess property.

(a) Acquisition and disposal.

Notwithstanding any other provision of law, and subject to subsection (b) of this section, the Federal cochairman of each regional commission established

under section 3182 of this title may acquire excess property, without reimbursement, through the Administrator of General Services and shall dispose of such property, without reimbursement and for the purpose of economic development, by loaning to, or by vesting title in, any of the following recipients located wholly or partially within the economic development region of such Federal cochairman:

(1) any State or political subdivision thereof;

(2) any tax-supported organization;

(3) any Indian tribe, band, group, pueblo, or Alaskan village or Regional Corporation (as defined by the Alaska Native Land Claims Settlement Act of 1971) recognized by the Federal Government or any State, and any business owned by any tribe, band, group, pueblo, village, or Regional Corporation;

(4) any tax-supported or nonprofit private hospital; and

(5) any tax-supported or nonprofit private institution of higher education requiring a high school diploma, or equivalent, as a basis for admission.

Such recipient may have, but need not have, received any other aid under this chapter. For the purposes of this section, until a regional commission is established for the State of Alaska under section 3182 of this title, in the case of the State of Alaska the Secretary of Commerce shall exercise the authority granted to a Federal cochairman under this section.

(b) Priority of Federal cochairmen; rules and regulations.

For purposes of subsection (a) of this section—

(1) each Federal cochairman, in the acquiring of excess property, shall have the same priority as other Federal agencies; and

(2) the Secretary shall prescribe rules, regulations, and procedures for administering subsection (a) of this section which may be different for each economic development region, except that the Secretary shall consult with the Federal cochairman of a region before prescribing such rules, regulations, and procedures for such region.

(c) Payment of costs.

(1) The recipient of any property disposed of by any Federal cochairman under subsection (a) of this section shall pay, to the Federal agency having custody of the property, all costs of care and handling incurred in the acquiring and disposing of such property; and such recipient shall pay all costs which may be incurred regarding such property after such Federal cochairman disposes of it, except that such recipient shall not pay any costs incurred after such property is returned under subsection (e) of this section.

(2) No Federal cochairman may be involved at any time in the receiving or processing of any costs paid by the recipient under paragraph (1).

(d) Accounting to Secretary by Federal cochairman; time; access to information.

Each Federal cochairman, not later than six calendar months after the close of each fiscal year, shall account to the Secretary, as the Secretary shall prescribe, for all property acquired and disposed of, including any property acquired but not disposed of, under subsection (a) of this section during such fiscal year. The Secretary shall have access to all information and related material in the possession of such Federal cochairman regarding such property.

(e) Disposition of property unnecessary for economic development.

Any property determined by the Federal cochairman to be no longer needed for the purpose of economic development shall be reported by the recipient to the Administrator of General Services for disposition under the Federal Property and Administrative Services Act of 1949.

(f) Exclusion of value of acquired or disposed property from computation of appropriation or authorization for appropriation.

The value of any property acquired and disposed of, including any property acquired but not disposed of, under subsection (a) of this section shall not be taken into account in the computation of any appropriation, or any authorization for appropriation, regarding any regional commission established under section 3182 of this title or any office of the Federal cochairman of such commission.

(g) Definitions.

For purposes of this section—

(1) the term "care and handling" has the meaning given it by section 472(h) of Title 40; and

(2) the term "excess property" has the meaning given it by section 472(e) of Title 40, except that such term does not include real property.

(Pub. L. 89–136, title V, § 514, as added Pub. L. 93–423, § 11, Sept. 27, 1974, 88 Stat. 1162.)

REFERENCES IN TEXT

The Alaska Native Land Claims Settlement Act of 1971, referred to in subsec. (a), is classified to section 1601 et seq. of Title 43, Public Lands.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (e), is Act June 30, 1949, c. 288, 63 Stat. 378. For classification to the Code, see Short Title note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 3194. Energy demonstration projects and programs.

(a) Fundamental changes are occurring in national energy requirements and production which could result in short-term dislocation and result in major long-term effects on various regions of the country. Expanded energy production opportunities must maximize social and economic benefits while minimizing social and environmental costs to the regions experiencing increased energy development. In some regions, impacted by limited energy resources, severe problems disruptive of regional economies could result. The programs of the regional commissions provide an excellent framework for coordinating Federal, State, and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmental costs, and (3) implementing programs and projects carried out in the regions by Federal, State, or local government agencies so as to better meet the special problems generated in the regions by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(b) Each regional commission is authorized to carry out energy-related demonstration projects and

programs within its regions including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact. Each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

(c) Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 3188a of this title shall be expended in any one fiscal year for the purpose of carrying out the energy-related provisions of this section, and not to exceed $2,500,000 of such funds shall be expended in any one fiscal year for indigenous arts and crafts demonstrations. (Pub. L. 89–136, title V, § 515, as added Pub. L. 94–188, title II, § 204, Dec. 31, 1975, 89 Stat. 1088.)

§ 3195. Health and nutrition demonstration projects.

(a) In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health, Education, and Welfare is authorized to make grants for the planning, construction, equipment, and operation of multicounty demonstration health, and nutrition projects including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purpose of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost effective means for providing increased health services, and initial equipment) shall be made after applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this subchapter, and the regional commission has approved such program or project and determined that it will contribute to the development of the region, and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291–291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this subchapter and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law.

(b) No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this subchapter or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this subchapter may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities.

(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the cost of attracting, training, and retraining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this subchapter, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project. For the next three years of operation such grants shall not exceed 75 per centum of such costs. The Federal contributions may be provided entirely from funds appropriated to carry out this subchapter or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provision of health services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approached by the regional commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. A health-related facility constructed under title I of this Act may be a component of a demonstration health project eligible for operating grant assistance under this section. (Pub. L. 89–136, title V, § 516, as added Pub. L. 94–188, title II, § 205, Dec. 31, 1975, 89 Stat. 1088.)

REFERENCES IN TEXT

Title VI of the Public Health Service Act, referred to in subsec. (a), is classified to section 291 et seq. of this title.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), referred to in subsec. (a) is Pub. L. 88–164, which was classified to former section 2661 et seq. of this title. See section 6031 et seq. of this title.

Title IV, parts A and B, and title XX of the Social Security Act, referred to in subsec. (c), are classified to sec-

tions 601–610, 620–626, and 1397–1397f of this title, respectively.

Social Security Act, referred to in subsec. (c), is classified to section 301 et seq. of this title.

Title I of this Act, referred to in subsec. (c), is title I of Pub. L. 94–188. For classification of such title, see short title note under section 1 of the Appendix to Title 40, Public Buildings, Property, and Works.

§ 3196. Vocational and technical education demonstration projects.

(a) Secretary authorized to make grants.

In order to assist in the expansion and improvement of educational opportunities and services for the people of the region, the Secretary of the Department of Health, Education, and Welfare is authorized to make grants for planning, construction, equipping, and operating vocational and technical educational projects which will serve to demonstrate areawide educational planning, services, and programs. Grants under this section shall be made solely out of funds specifically appropriated for the purposes of this subchapter and shall not be taken into account in any computation of allotments among the States pursuant to any other law.

(b) Cost limitations on grants for construction or equipment of components.

No grant for the construction or equipment of any component of a vocational and technical education demonstration project shall exceed 80 per centum of its cost.

(c) Limitations on operational costs.

Grants under this section for operation of components of vocational and technical educational demonstration projects, whether or not constructed by funds authorized by this subchapter, may be made for up to 100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of vocational and technical eduation demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. An education-related facility constructed under title I of this Act may be a component of a vocational and technical education demonstration project eligible for operating grant assistance under this section.

(d) Limitations on planning expenses.

No grant for expenses of planning necessary for the development and operation of a vocational and technical education demonstration project shall exceed 75 per centum of such expenses.

(e) Grants limited to public owned facilities.

No grant for planning, construction, operation, or equipment of a vocational and technical education demonstration project shall be made unless the facility is publicly owned.

(f) Federal share.

Any Federal contribution referred to in this section may be provided entirely from funds appropriated to carry out this section, or in combination with funds available under other Federal grant-in-aid programs providing assistance for education-related facilities or services. Notwithstanding any provision of law limiting the Federal share in such programs, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by the applicable paragraph of this subsection. (Pub. L. 89–136, title V, § 517, as added Pub. L. 94–188, title II, § 206, Dec. 31, 1975, 89 Stat. 1090.)

REFERENCE IN TEXT

Title I of this Act, referred to in subsec. (c), is Title I of Pub. L. 94–188. For classification of such title, see short title note under section 1 of the Appendix to Title 40, Public Buildings, Property, and Works.

SUBCHAPTER VI.—ADMINISTRATION

§ 3202. Advisory Committee on Regional Economic Development; membership; chairman; meetings.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER VII.—MISCELLANEOUS

§ 3211. Powers of Secretary.

In performing his duties under this chapter, the Secretary is authorized to—

* * * * *

(10) employ experts and consultants or organizations therefor as authorized by section 3109 of Title 5, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this chapter from the application of sections 507(b), 517 and 2679 of Title 28; and

* * * * *

CODIFICATION

In par. (10), "section 3109 of Title 5" and "section 5703 of Title 5" have been substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" and "section 5 of such Act (5 U.S.C. 73b–2)", respectively, on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In par. (11), section 517 of Title 28 has been substituted for section 367 of the Revised Statutes (5 U.S.C. 316) on the authority cited above.

§ 3222. Labor standards; rate of wages; assurance of maintenance of standards; enforcement.

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not extend any financial assistance under section 3131, 3141, 3142, 3171, 3243, and 3246b of this title for such a project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (As amended Pub. L. 93–567, title III, § 302, Dec. 31, 1974, 88 Stat. 1655.)

AMENDMENTS

1974—Pub. L. 93-567 inserted references to sections 3243 and 3236b of this title.

SUBCHAPTER VIII.—ECONOMIC RECOVERY FOR DISASTER AREAS [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5153 of this title.

§ 3231. Congressional statement of purpose.

(a) It is the purpose of this subchapter to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

(b) As used in this subchapter the term "major disaster" means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974. (Pub. L. 89–136, title VIII, § 801, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 160.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (b), is Pub. L. 93–288, which enacted this subchapter and chapter 68 (section 5121 et seq.) of this title. Provisions for the President's declaration of the existence of a major disaster are contained in section 5141 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 3232. Disaster recovery planning.

(a) Recovery Planning Council; designation; membership.

(1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this subchapter. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at east one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal coordinating officer shall also serve on the Recovery Planning Council.

(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to subchapter V of this chapter, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under subchapter IV of this chapter or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or subchapter IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 3334 of this title and by the Intergovernmental Cooperation Act of 1968.

(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

(b) Review and revision of plans.

The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plans determinations made under section 5172(f) of this title.

(c) Recovery investment plan; reserve funds.

(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprograming, or additional approval of Federal-aid projects and programs within the area—

(A) for which application has been made but approval not yet granted;

(B) for which funds have been obligated or approval granted but construction not yet begun;

(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

(E) which may reasonably be anticipated as becoming available under existing programs.

(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act. (Pub. L. 89–136, title VIII, § 802, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 160.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (a)(3), (4), is Pub. L. 89–4, Mar. 9, 1965, 79 Stat. 5, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

The Intergovernmental Cooperation Act of 1968, referred to in subsec. (a)(4), is Pub. L. 90–577, which is classified to section 4201 et seq. of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3233, 3235 of this title.

§ 3233. Public works and development facilities grants and loans.

(a) Funds for recovery investment plans.

The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to section 3232(c)(2) of this title, or other Federal-aid projects in the affected area.

(b) Eligible entities for grants and loans.

Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

(c) Federal share, increase by supplementary grants; limits.

No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

(d) Interest rate.

Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per centum.

(e) Assistance resulting in relocation of establishments or divestiture of contractors prohibited.

Financial assistance under this subchapter shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations. (Pub. L. 89–136, title VIII, § 803, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 161.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5154 of this title.

§ 3234. Loan guarantees.

The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or

development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan. (Pub. L. 89–136, title VIII, § 804, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 162.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 3235. Technical assistance.

(a) Projects for economic recovery.

In carrying out the purposes of this subchapter the President is authorized to provide technical assistance which would be useful in facilitating ecomic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this subchapter to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizattions.

(b) Grants for federal share of administrative expenses.

The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 3232 of this title. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds. (Pub. L. 89–136, title VIII, § 805, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 162.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 3236. Authorization of appropriations.

There is authorized to be appropriated not to exceed $250,000,000 to carry out this subchapter. (Pub. L. 89–136, title VIII, § 806, as added Pub. L. 93–288, title V, § 501, May 22, 1974, 88 Stat. 163.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub L. 93–288, set out as a note under section 5121 of this title.

SUBCHAPTER IX.—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 40 App. section 214.

§ 3241. Statement of purpose.

It is the purpose of this subchapter to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality, and economic adjustment problems resulting from severe changes in economic conditions, and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this subchapter is intended to replace the efforts of the economic adjustment program of the Department of Defense. (Pub. L. 89–136, title IX, § 901, as added Pub. L. 93–423, § 12, Sept. 27, 1974, 88 Stat. 1164.)

§ 3242. Definitions.

As used in this subchapter, the term "eligible recipient" means a redevelopment area or economic development district established under subchapter IV of this chapter, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions. (Pub. L. 89–136, title IX, § 902, as added Pub. L. 93–423, § 12, Sept. 27, 1974, 88 Stat. 1164.)

§ 3243. Grants by Secretary.

(a) Eligible recipients; execution of development plan; use; method of payment.

(1) The Secretary is authorized to make grants directly to any eligible recipient in an area which the Secretary has determined has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government) to carry out or develop a plan which meets the requirements of subsection (b) of this section and which is approved by the Secretary to use such grants for any of the following: public facilities, public services, business development, planning, unemployment compensation (in accordance with subsection (d) of this section), rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals, and other appropriate assistance.

(2)(A) Such grants may be used in direct expenditures by the eligible recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profitmaking entity.

(B) Grants for unemployment compensation shall be made to the State. Grants for any other purpose shall be made to any appropriate eligible recipient capable of carrying out such purpose.

(b) Criteria for approval of plan.

No plan shall be approved by the Secretary under this section unless such plan shall—

(1) identify each economic development and adjustment need of the area for which assistance is sought under this subchapter;

(2) describe each activity planned to meet each such need;

(3) explain the details of the method of carrying out each such planned activity;

(4) contain assurances satisfactory to the Secretary that the proceeds from the repayment of loans made by the eligible recipient with funds granted under this subchapter will be used for economic adjustment; and

(5) be in such form and contain such additional information as the Secretary shall prescribe.

(c) Coordination of activities with regional commissions, States, etc.

The Secretary to the extent practicable shall coordinate his activities in requiring plans and making grants and loans under this subchapter with regional commissions, States, economic development districts and other appropriate planning and development organizations.

(d) Transfer of funds; availability of assistance to qualified individuals; limitation of amounts; administration by State agencies.

In each case in which the Secretary determines a need for assistance under subsection (a) of this section due to an increase in unemployment and makes a grant under this section, the Secretary may transfer funds available for such grant to the Secretary of Labor and the Secretary of Labor is authorized to provide to any individual unemployed as a result of the dislocation for which such grant is made, such assistance as he deems appropriate while the individual is unemployed. Such assistance as the Secretary of Labor may provide shall be available to an individual not otherwise disqualified under State law for unemployment compensation benefits, as long as the individual's unemployment caused by the dislocation continues or until the individual is reemployed in a suitable position, but no longer than one year after the unemployment commences. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the dislocation occurred, and the amount of assistance under this subsection shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The Secretary of Labor is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies. (Pub. L. 89–136, title IX, § 903, as added Pub. L. 93–423, § 12, Sept. 27, 1974, 88 Stat. 1164.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3222 of this title.

§ 3244. Annual reports by recipient and Secretary.

(a) Each eligible recipient which receives assistance under this subchapter shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this subchapter in meeting the need it was designed to alleviate and the purposes of this subchapter.

(b) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this subchapter, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than January 30, 1976. (Pub. L. 89–136, title IX, § 904, as added Pub. L. 93–423, § 12, Sept. 27, 1974, 88 Stat. 1165.)

§ 3245. Authorization of appropriations.

There is authorized to be appropriated to carry out this subchapter not to exceed $75,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976. (Pub. L. 89–136, title IX, § 905, as added Pub. L. 93–423, § 12, Sept. 27, 1974, 88 Stat. 1166.)

SUBCHAPTER X.—JOB OPPORTUNITIES PROGRAM [NEW]

§ 3246. Congressional statement of purpose.

It is the purpose of this subchapter to provide emergency financial assistance to stimulate, maintain or expand job creating activities in areas, both urban and rural, which are suffering from unusually high levels of unemployment. (Pub. L. 89–136, title X, § 1001, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853.)

§ 3246a. Definitions.

For the purpose of this subchapter—

(1) [1] the term "eligible area" means—

(A) any area, which the Secretary of Labor designates as an area which has a rate of unemployment, equal to or in excess of 6.5 per centum for three consecutive months;

(B) any area designated pursuant to section 844(c) of Title 29, and

(C) any area which is designated by the Secretary of Commerce pursuant to section 3161 of this title as a redevelopment area.

(Pub. L. 89–136, title X, § 1002, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853.)

§ 3246b. Program authorized.

(a) Authorization of Secretary of Commerce; comment of officials of appropriate units of general government on specific proposals.

To carry out the purposes of this subchapter, the Secretary of Commerce, in accordance with the provisions of this subchapter, is authorized from funds appropriated and made available under section 3246f of this title to provide financial assistance to programs and projects identified through the review process described in section 3246c of this title to expand or accelerate the job creating impact of such programs or projects for unemployed persons in eligible areas. Programs and projects for which funds are made available under this subchapter

[1] Section enacted without a par. (2).

shall not be approved until the officials of the appropriate units of general government in the affected area have an adequate opportunity to comment on the specific proposal.

(b) Administration of assistance by head of department, agency, or instrumentality of Federal Government; exceptions.

Whenever funds are made available by the Secretary of Commerce under this subchapter for any program or project, the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such assistance shall, except as otherwise provided in this subsection, administer the law authorizing such assistance in accordance with all applicable provisions of that law, except provisions relating to—

(1) requiring allocation of funds among the States,

(2) limits upon the total amount of such grants for any period, and

(3) the Federal contribution to any State or local government, whenever the President or head of such department, agency, or instrumentality of the Federal Government determines that any non-Federal contribution cannot reasonably be obtained by the State or local government concerned.

(c) Initiation of programs.

Where necessary to effectively carry out the purposes of this subchapter the Secretary of Commerce is authorized to initiate programs in eligible areas.

(d) Allocation of funds; priority considerations.

In allocating funds under this subchapter, the Secretary of Commerce shall give priority consideration to—

(1) the severity of unemployment in the area; and

(2) the appropriateness of the proposed activity in relating to the number and needs of unemployed persons in eligible areas.

(e) Funds available for programs or projects determined by Secretaries of Commerce and Labor jointly to meet certain requirements.

Notwithstanding any other provision of this subchapter, funds allocated by the Secretary of Commerce shall be available only for programs or projects which the Secretary of Commerce and the Secretary of Labor jointly determine are programs or projects—

(1) which will contribute significantly to the reduction of unemployment in the eligible area;

(2) which can be initiated or strengthened promptly;

(3) a substantial portion of which can be completed within 12 months after such allocation is made;

(4) which are not inconsistent with locally approved comprehensive plans for the jurisdiction affected, whenever such plans exist; and

(5) which will be approved giving first priority to programs and projects which are most labor intensive.

(Pub. L. 89–136, title X, § 1003, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3222, 3246c of this title.

§ 3246c. Program review.

Within 45 days after December 31, 1974, each department, agency or instrumentality of the Federal government, and each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 3182 of this title shall (1) complete a review of its budget, plans and program including State, substate and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in calendar year 1975 and additional programs and projects for which funds could be obligated in such year with Federal financial assistance under this subchapter; and (3) submit to the Secretary of Commerce and the Secretary of Labor recommendations for programs and projects which have the potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within 30 days of the receipt of such recommendations the Secretary of Commerce and the Secretary of Labor shall jointly review such recommendations, and the Secretary of Commerce shall after consultation with such department, agency, instrumentality, and regional commissions, make allocations of funds in accordance with section 3246b(e) of this title. (Pub. L. 89–136, title X, § 1004, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1854.)

REFERENCES IN TEXT

Section 101 of the Appalachian Regional Development Act of 1965, referred to in text, is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3246b of this title; title 40 App. section 101.

§ 3246d. Limitations on use of funds.

Fifty per centum of the funds appropriated pursuant to section 3246f of this title shall be available only for programs and projects in which not more than 25 percent of such funds will be expended for necessary non-labor costs. (Pub. L. 89–136, title X, § 1005, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855.)

§ 3246e. Rules, regulations, and procedures.

The Secretary of Commerce shall prescribe such rules, regulations, and procedures to carry out the provisions of this subchapter as will assure that adequate consideration is given to the relative needs of applicants for assistance in rural eligible areas and the relative needs of applicants for assistance in urban eligible areas and to any equitable distribution of funds authorized under this subchapter between rural and urban eligible applicants. (Pub. L. 89–136, title X, § 1006, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855.)

§ 3246f. Authorization of appropriations.

There are authorized to be appropriated $500,000,000 for the fiscal year 1975 to carry out the provisions of this subchapter, except that no further obligation of funds appropriated under this section

may be made subsequent to a determination that the national average rate of unemployment has receded below 6.5 per centum for three consecutive calendar months as determined by the Secretary of Labor. Any amounts so appropriated for such fiscal year which are not obligated prior to the end of such fiscal year shall remain available for obligation until December 31, 1975. (Pub. L. 89–136, title X, § 1007, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3246b, 3246d of this title.

§ 3246g. Termination date.

Notwithstanding any other provision of this subchapter, no further obligation of funds appropriated under this subchapter shall be made by the Secretary of Commerce after December 31, 1975. (Pub. L. 89–136, title X, § 1008, as added Pub. L. 93–567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855.)

Chapter 39.—SOLID WASTE DISPOSAL

§ 3251. Congressional findings and declaration of purpose.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control and abatement of environmental pollution at federal facilities.

§ 3259. Authorization of appropriations.

(a) (1) * * *

* * * * *

(2) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this chapter, other than section 3254b of this title, not to exceed $72,000,000 for the fiscal year ending June 30, 1972, not to exceed $76,000,000 for the fiscal year ending June 30, 1973, not to exceed $76,000,000 for the fiscal year ending June 30, 1974, and not to exceed $76,000,000 for the fiscal year ending June 30, 1975.

(3) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out section 3254b of this title not to exceed $80,000,000 for the fiscal year ending June 30, 1972, not to exceed $140,000,000 for the fiscal year ending June 30, 1973, and not to exceed $140,000,000 for the fiscal year ending June 30, 1974.

(b) There are authorized to be appropriated to the Secretary of the Interior to carry out this chapter not to exceed $8,750,000 for the fiscal year ending June 30, 1971, not to exceed $20,000,000 for the fiscal year ending June 30, 1972, not to exceed $22,500,000 for the fiscal year ending June 30, 1973, and not to exceed $22,500,000 for the fiscal year ending June 30, 1974. Prior to expending any funds authorized to be appropriated by this subsection, the Secretary of the Interior shall consult with the Secretary of Health, Education, and Welfare to assure that the expenditure of such funds will be consistent with the purposes of this chapter.

* * * * *

(As amended Pub. L. 93–14, Apr. 9, 1973, 87 Stat. 11; Pub. L. 93–611, Jan. 2, 1975, 88 Stat. 1974.)

AMENDMENTS

1975—Subsec. (a) (2). Pub. L. 93–611 authorized appropriation of $76,000,000 for fiscal year ending June 30, 1975.

1973—Subsec. (a) (2). Pub. L. 93–14, § 1(a), substituted "Administrator of the Environmental Protection Agency" for "Secretary of Health, Education, and Welfare" and authorized appropriation of $76,000,000 for fiscal year ending June 30, 1974.

Subsec. (a) (3). Pub. L. 93–14 § 1(b), substituted "Administrator of the Environmental Protection Agency" for "Secretary of Health, Education, and Welfare" and authorized appropriation of $140,000,000 for fiscal year ending June 30, 1974.

Subsec. (b). Pub. L. 93–14, § 1(c), authorized appropriation of $22,500,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3254b of this title.

Chapter 41.—DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT PROGRAM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 section 461.

SUBCHAPTER I.—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5303, 5306, 5316 of this title.

§ 3301. Congressional findings and declaration of purpose.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, [see Short Title note set out hereunder], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

§ 3303. Eligibility for assistance; implementation of programs; analyses and programing systems; transfer of pupils.

(a) A comprehensive city demonstration program is eligible for assistance under sections 3305 and 3307 of this title only if—

* * * * *

(4) any program which includes a transportation component as a project or activity to be undertaken meets the requirements of section 1602(e) of Title 49;

(5) the various projects and activities to be undertaken in connection with such programs are scheduled to be initiated within a reasonably short period of time; adequate local resources are, or will be, available for the completion of the program as scheduled, and, in the carrying out of the program, the fullest utilization possible will be made of private initiative and enterprise; administrative machinery is available at the local level for carrying out the program on a consolidated and coordinated basis; substantive local laws, regulations, and other requirements are, or can be expected to be, consistent with the objectives of the program; there exists a relocation plan meeting the requirements of the regulations referred to in section 3307 of this title; the local governing body has approved the program and, where

appropriate, applications for assistance under the program; agencies whose cooperation is necessary to the success of the program have indicated their intent to furnish such cooperation; the program is consistent with comprehensive planning for the entire urban or metropolitan area; and the locality will maintain, during the period an approved comprehensive city demonstration program is being carried out, a level of aggregate expenditures for activities similar to those being assisted under this subchapter which is not less than the level of aggregate expenditures for such activities prior to initiation of the comprehensive city demonstration program; and

(6) the program meets such additional requirements as the Secretary may establish to carry out the purposes of this subchapter: *Provided,* That the authority of the Secretary under this paragraph shall not be used to impose criteria or establish requirements except those which are related and essential to the specific provisions of this subchapter.

* * * * *

(As amended Pub. L. 93–503, title I, § 105, Nov. 26, 1974, 88 Stat. 1572.)

AMENDMENTS

1974—Subsec. (a)(4). Pub. L. 93–503, § 105(1), (2), added subsec. (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5). Pub. L. 93–503, § 105(1), redesignated former subsec. (a)(4) as (a)(5). Former subsec. (a)(5) redesignated (a)(6).

Subsec. (a)(6). Pub. L. 93–503, § 105(1), redesignated former subsec. (a)(5) as (a)(6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3305 of this title.

§ 3305. Financial assistance for approved subchapter I programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5306 of this title.

§ 3307. Relocation requirements

* * * * *

(b), (c) Repealed. Pub. L. 91–646, title II, § 220(a)(9), Jan. 2, 1971, 84 Stat. 1903.

(As amended Pub. L. 91–646, title II, § 220(a)(9), Jan. 2, 1971, 84 Stat. 1903.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 91–646 repealed provisions authorizing grants to cover relocation costs, making the grants additional to other financial assistance extended to the agency, and defining "relocation payments". Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

Subsec. (c). Pub. L. 91–646 repealed provisions making subsec. (b) inapplicable to displacements prior to Nov. 3, 1966.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of subsec. (b) and (c) of this section by Pub. L. 91–646 not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3303, 3311 of this title.

§ 3311. Authorization of appropriations; assistance to city demonstration agencies; availability of funds for expenditures.

* * * * *

(b) There are authorized to be appropriated, for the purpose of financial assistance under sections 3305, 3306, and 3307 of this title, not to exceed $400,000,000 for the fiscal year ending June 30, 1968, not to exceed $500,000,000 for the fiscal year ending June 30, 1969, not to exceed $1,000,000,000 for the fiscal year ending June 30, 1970, not to exceed $600,000,000 for the fiscal year ending June 30, 1971, and not to exceed $200,000,000 for the fiscal year ending June 30, 1972. In addition, there are authorized to be appropriated for such purpose such sums as may be necessary for the fiscal year ending June 30, 1975. Under regulations prescribed by the Secretary, 10 per centum of the amounts appropriated pursuant to this subsection for the fiscal year ending June 30, 1970, and for any fiscal year thereafter shall be used for assistance to city demonstration agencies in cities or counties having a population (according to the most recent decennial census) of less than 100,000, and may be so used (to the extent specifically provided in such regulations) without regard to the limitation set forth in the first sentence of section 3305(c) of this title.

(c) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1975. (As amended Pub. L. 92–335, § 2, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, § 6, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93–383, title I, § 116(d), Aug. 22, 1974, 88 Stat. 652.)

AMENDMENTS

1974—Subsec. (b) Pub. L. 93–383, § 116(d)(1), added provision authorizing to be appropriated such sums as necessary for the fiscal year ending June 30, 1975.

Subsec. (c). Pub. L. 93–383, § 116(d)(2), substituted "July 1, 1975" for "July 1, 1974".

1973—Subsec. (c). Pub. L. 93–117 substituted "July 1, 1974" for "September 30, 1972."

1972—Subsec. (c). Pub. L. 92–335 substituted "September 30, 1972" for "July 1, 1972".

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3313 of this title.

SUBCHAPTER II.—PLANNED AREAWIDE DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title.

§ 3334. Coordination of Federal aids in metropolitan areas; rules and regulations.

(a) All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out

open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review—

* * * * *

(As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 215.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 reenacted 1968 Amendment, inserting "law enforcement facilities," after "transportation facilities,".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*–2, 3232 of this title; title 16 sections 1454, 1455; title 40 section 461.

§ 3338. Definitions.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 3374. Acquisition of property at or near military bases which have been ordered to be closed.

* * * * *

(d) Fund for extension of financial assistance; capital and receipts; availability of monies; covering into Treasury as miscellaneous receipts; Federal title to and control of property; other laws unaffected; foreign properties, exclusion.

There shall be in the Treasury a fund which shall be available to the Secretary of Defense for the purpose of extending the financial assistance provided above. The capital of such fund shall consist of such sums as may, from time to time, be appropriated thereto, and shall consist also of receipts from the management, rental, or sale of properties acquired under this section, which receipts shall be credited to the fund and shall be available, together with funds appropriated therefor, for purchase or reimbursement purposes as provided above, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, costs of insurance, and other indemnity. Any part of such receipts not required for such expenses shall be covered into the Treasury as miscellaneous receipts. Properties acquired under this section shall be conveyed to, and acquired in the name of, the United States. The Secretary of Defense shall have the power to deal with, rent, renovate, and dispose of, whether by sales for cash or credit or otherwise, any properties so acquired: *Provided, however,* That no contract for acquisition, or acquisition, shall be deemed to constitute a contract for or acquisition of family housing units in support of military installations or activities within the meaning of section 1594i(a) of this title, nor shall it be deemed a transaction within the contemplation of section 2662 of Title 10: *Provided further,* That no properties in foreign countries shall be acquired under this section, except in connection with compensation for property located on a base or installation pursuant to subsection (j) of this section.

* * * * *

(j) Foreign property losses.

Notwithstanding the provisions of subsection (a)(2) and the second proviso of subsection (b) of this section, Federal employees or military personnel employed at or near a military base or installation outside the United States who are otherwise eligible under the criteria as set forth above shall be entitled to compensation for losses arising (1) out of the sale of property, or (2) out of the inability to sell property located on a base or installation, incident to the owner's transfer, reassignment, or involuntary termination of employment, which results in his relocation. Such employees or military personnel whose property is located off a base or installation shall be entitled to compensation under subsection (c) of this section for losses sustained in private sales. Such employees or personnel whose property is located on a base or installation, who sell or are unable to find a purchaser for such property, may surrender their interest in such property to the United States, and shall be entitled to compensation. notwithstanding lack of ownership of the land on which such property is located, in an amount equal to (A) 90 per centum of the sum of the present owner's purchase price of the dwelling and improvements, and all costs of ownership including interest on notes, utilities and services, maintenance and insurance, less (B) the total of all housing allowances received from the Government during ownership and occupancy of the dwelling, all rents collected, and the sale price, if any, received for the property, as determined by the Secretary of Defense: *Provided, however,* That the maximum compensation shall in no event exceed 90 per centum of the unamortized portion of the cost of the property, including improvements, at the time ownership is terminated, as reflected in the amortization schedule, if any, relating to such property. For the purpose of this subsection, the term "United States" means the several States and the District of Columbia.

(k) Eligibility for benefits as to closure actions announced after April 1, 1973; criteria.

In addition to the coverage provided above, the benefits of this section shall apply, as to closure actions in the several States and the District of

Columbia announced after April 1, 1973, to otherwise eligible employees or personnel who are (1) employed or assigned either at or near the base or installation affected by the closure action, and (2) are required to relocate, due to transfer, reassignment or involuntary termination of employment, for reasons other than the closure action. (As amended Pub. L. 92–545, title VI, § 601, Oct. 25, 1972, 86 Stat. 1150; Pub. L. 93–166, title V, § 513(b), Nov. 29, 1973, 87 Stat. 679.)

AMENDMENTS

1973—Subsec. (k). Pub. L. 93–166 added subsec. (k). Letter designation of the added subsection was, in the original "(m)", which for purposes of classification was changed to "(k)".

1972—Subsec. (d). Pub. L. 92–545 added ", except in connection with compensation for property located on a base or installation pursuant to subsection (j) of this section" to the provision prohibiting the acquisition of properties in foreign countries under this section.

Subsec. (j). Pub. L. 92–545 added subsec. (j). Letter designation of the added subsection was, in the original "(i)", which for purposes of classification was changed to "(j)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1715n.

Chapter 42.—NARCOTIC ADDICT REHABILITATION

SUBCHAPTER II.—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 257 of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 2–2222, 24–613 of the District of Columbia Code.

§ 3411. Definitions.

For the purposes of this subchapter the term—

* * * * *

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction.

* * * * *

(As amended Pub. L. 92–420, § 4, Sept. 16, 1972, 86 Stat. 677.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–420 substituted "by eliminating his dependence on addicting drugs, or by controlling his dependence," for "by correcting his antisocial tendencies and ending his dependence on addicting drugs".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b) by Pub. L. 92–420 applicable to cases pending in a district court of the United States in which an appearance has not been made prior to Sept. 16, 1972, see section 5 of Pub. L. 92–420, set out as a note under section 2901 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER III.—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 257 of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 24–613 of the District of Columbia Code.

Chapter 43.—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sec.

3502a. Administrator of Social and Rehabilitation Service; appointment and confirmation [New].
3505d. National Health Manpower Shortages Clearinghouse [New].
(a) Establishment; function.
(b) Information and listing services available without charge.
(c) Authorization of appropriations.
3511. Alcohol, Drug Abuse, and Mental Health Administration [New].
(a) Establishment; appointment of Administrator and Deputy Administrator; employment and functions of officers and employees.
(b) Statement of purpose for supervision of functions of National Institutes of Mental Health, Alcohol Abuse and Alcoholism, and Drug Abuse.
(c) National Panel on Alcohol, Drug Abuse, and Mental Health; establishment; functions; membership.

§ 3501. Establishment of Department; effective date.

INVESTIGATION OF YOUTH CAMP SAFETY

Pub. L. 92–318, title VI, §§ 601–603, June 23, 1972, 86 Stat. 353, 354, provided:

"SEC. 601. [*Scope of Study*]. The Secretary of Health, Education, and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

"SEC. 602 [*Report to Congress*]. The Secretary of Health, Education, and Welfare shall make a report to the Congress before March 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

"SEC. 603 [*Authorization of Appropriations.*] There is authorized to be appropriated $300,000 for carrying out the purposes of this title."

§ 3502a. Administrator of Social and Rehabilitation Service; appointment and confirmation.

Appointments made on or after October 30, 1972, to the office of Administrator of the Social and Rehabilitation Service, within the Department of Health, Education, and Welfare, shall be made by the President, by and with the advice and consent of the Senate. (Pub. L. 92–603, title II, § 294, Oct. 30, 1972, 86 Stat. 1459.)

§ 3505c. Repealed. Pub. L. 94–63, title II, § 203(b), July 29, 1975, 89 Stat. 307.

Section, Pub. L. 91–572, § 5, Dec. 24, 1970, 84 Stat. 1505, required the Secretary to submit a report to Congress not later than six months after Dec. 24, 1970, setting forth a plan for the implementation of family planning

and population research programs under section 300 et seq. of this title. See section 300a–6a of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.

§ 3505d. National Health Manpower Shortage Clearinghouse.

(a) Establishment; function.

There is established in the Department of Health, Education, and Welfare a National Health Manpower Shortage Clearinghouse. It shall be the function of the Clearinghouse to provide information to, and maintain listings of, (1) communities and areas with health professional needs, and (2) prospective health workers interested in such opportunities.

(b) Information and listing services available without charge.

Information and listing services performed by the Clearinghouse shall be provided free of charge to all interested health professionals and to all communities and groups within the areas determined by the Secretary under section 294a(f) of this title to have a shortage of and need for health professionals.

(c) Authorization of appropriations.

There are authorized to be appropriated such sums as are necessary to establish, operate, and maintain the Clearinghouse created by subsection (a) of this section. (Pub. L. 92–157, title II, § 202, Nov. 18, 1971, 85 Stat. 461.)

§ 3508. Motor vehicle transfers between bureaus and offices.

REPEALED

Pub. L. 92–80, title II, § 202, Aug. 10, 1971, 85 Stat. 298; Pub. L. 93–192, title II, § 202, Dec. 18, 1973, 87 Stat. 760; Pub. L. 93–517, title II, § 202, Dec. 7, 1974, 88 Stat. 1647.

§ 3511. Alcohol, Drug Abuse, and Mental Health Administration.

(a) Establishment; appointment of Administrator and Deputy Administrator; employment and functions of officers and employees.

The Secretary of Health, Education, and Welfare shall establish, in the Department of Health, Education, and Welfare, the Alcohol, Drug Abuse, and Mental Health Administration (hereinafter in this section referred to as the "Administration"). The Administration shall be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

(b) Statement of purpose for supervision of functions of National Institutes of Mental Health, Alcohol Abuse and Alcoholism, and Drug Abuse.

The Secretary, acting through the Administration, shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse in order to assure that (1) the programs carried out through each such Institute receive appropriate and equitable support, and (2) there is cooperation among the Institutes in the implementation of such programs.

(c) National Panel on Alcohol, Drug Abuse, and Mental Health; establishment; functions; membership.

The Secretary of Health, Education, and Welfare shall establish a National Panel on Alcohol, Drug Abuse, and Mental Health (hereinafter in this subsection referred to as the "panel") to advise, consult with, and make recommendations to the Secretary concerning the activities to be carried out through the Administration. The panel shall consist of three members appointed by the Secretary as follows: One member shall be appointed from the public members of the National Advisory Mental Health Council established under section 218 of this title, one member shall be appointed from the public members of the National Advisory Council on Alcohol Abuse and Alcoholism established under such section, and one member shall be appointed from the public members of the National Advisory Council on Drug Abuse established under such section. (Pub. L. 93–282, title II, § 201, May 14, 1974, 88 Stat. 134.)

Chapter 44.—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.

3538. Rescheduling and refinancing of federal loans.
3539. Housing and Urban Development Disaster Assistance Fund.

§ 3531. Congressional declaration of purpose.

EX. ORD. NO. 11668. NATIONAL CENTER FOR HOUSING MANAGEMENT

Ex. Ord. No. 11668, Apr. 21, 1972, 37 F.R. 8057, provided:

By virtue of the authority vested in me as President of the United States and in accordance with the provisions of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3531 et seq.) [this chapter], Title VIII of the Housing Act of 1964, as amended (20 U.S.C. 801 et seq.), and Title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 et seq.), it is ordered as follows:

SECTION 1. *Policy.* The Nation's housing stock represents an important national resource which must be preserved and well managed if public and private investments are to be protected, and if we are to meet our goal of providing a decent home and suitable living environment for low and moderate income residents. The production of Federally-assisted housing has greatly expanded in recent years, creating a need for a balanced strategy to ensure that such housing remains viable for the purposes intended.

This expansion also creates a need for a growing supply of new management manpower for the years ahead. Special skills must be developed among these managers so that they can effectively overcome the social and economic problems facing many residents of Federally-assisted housing, including the elderly. Training, the improvement of career opportunities, and the upgrading of industry standards are all essential to the improvement of the Nation's housing management capability, particularly for low and moderate income housing.

SEC. 2. *Establishment of a National Center for Housing Management.* (a) The Secretary of Housing and Urban Development is directed to call upon public-spirited citizens, dedicated and experienced in the appropriate disciplines, to create, in accordance with existing laws, a new, non-governmental, not-for-profit institution to serve as a National Center for Housing Management (referred to herein as the Center).

(b) The Center should be designed to provide objective and independent leadership at the national level in helping meet the Nation's housing management and training needs and should work cooperatively with the Department

of Housing and Urban Development and with the public and private organizations and institutions involved in, or affected by, its activities.

SEC. 3. *Activities of the Center.* The activities of the Center should be developed along lines that include the following objectives:

(1) Development of training and educational programs for housing management and personnel;

(2) Cooperation with public and private national, State, and local organizations and institutions in extending housing management training and educational opportuities, using to the fullest extent possible the services and facilities of existing agencies with expertise in training and education.

(3) Cooperation with national, State, and local organizations and institutions in establishing or expanding recruitment and placement systems that will link training in housing management to job opportunities in that field.

(4) Development of improved housing management practices and assistance in professionalizing the housing management industry; and

(5) Stimulating the creation of new management entities, and strengthening the effectiveness of existing management entities.

SEC. 4. *Assistance by Federal Agencies.* To the extent consistent with law, all other Federal executive departments and agencies shall cooperate and work with the Department of Housing and Urban Development and the Center in providing appropriate advice and financial support so as to ensure that the above described objectives are carried out with the most effective and efficient use of Federal, State and local resources, both public and private.

RICHARD NIXON.

§ 3532. Establishment of Department.

CONDOMINIUM AND COOPERATIVE STUDY AND REPORT; SUBMISSION TO CONGRESS

Pub. L. 93–383, title VII, § 821, Aug. 22, 1974, 88 Stat. 740, provided that: "The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study, and report to Congress not later than one year after the date of enactment of this Act [Aug. 22, 1974], with respect to condominiums and cooperatives, and the problems, difficulties, and abuses or potential abuses applicable to condominium and cooperative housing."

§ 3533. Officers of Department.

(a) Under Secretary, Assistant Secretaries, and General Counsel; appointment, functions, powers, and duties; Federal Housing Commissioner; head of Federal Housing Administration, powers and duties; Federal Housing Commissioner; head of relating to private mortgage market.

There shall be in the Department an Under Secretary, eight Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time. There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market.

(b) Director of Urban Program Coordination; designation; powers and duties; studies of urban and community problems and recommendations for administration of Federal programs affecting such problems.

There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(c) Assistant to Secretary; designation; duty to provide information and advice to nonprofit project sponsors.

There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department. (As amended Pub. L. 93–383, title VIII, § 818(a), Aug. 22, 1974, 88 Stat. 740.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383, § 818(a)(1), increased the number of Assistant Secretaries fro msix to eight.

Subsec. (b). Pub. L. 93–383, § 818(a) (2), (3), redesignated former subsec. (c) as (b). Former subsec. (b), which related to the appointment and functions of an Assistant Secretary for Administration, was struck out.

Subsec. (c). Pub. L. 93–383, § 818(a)(3), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 93–383, § 818(a)(3), redesignated former subsec. (d) as (c).

§ 3538. Rescheduling and refinancing of federal loans.

The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship. (Pub. L. 91–606, title II, § 236(b), Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

The revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, referred to in text, is the fund referred to in section 1701g–5 of Title 12, Banks and Banking.

CODIFICATION

Section was formerly classified to section 4455(b) of this title.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 636b.

§ 3539. Housing and Urban Development Disaster Assistance Fund.

The Secretary of Housing and Urban Development is authorized to establish a fund and to transfer to such fund from appropriations or funds available to the Department of Housing and Urban Development, such amounts as may be necessary to provide disaster assistance for which the Secretary has been requested by the Director of the Office of Emergency Preparedness to make resources available pursuant to the authority of the Disaster Relief Act of 1970. (Pub. L. 92–383, title IV, § 406, Aug. 14, 1972, 86 Stat. 553.)

REFERENCES IN TEXT

The Disaster Relief Act of 1970, referred to in text, was Pub. L. 91–606, Dec. 31, 1970, 84 Stat. 1744, which was repealed by Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164. See section 5121 et seq. of this title.

CODIFICATION

Section was formerly classified to section 4413a of this title.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 45.—FAIR HOUSING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5304 of this title.

SUBCHAPTER I.—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 23 section 117; title 49 section 1604.

§ 3604. Discrimination in the sale or rental of housing.

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin. (As amended Pub. L. 93–383, title VIII, § 808(b)(1), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93–383 added "sex" wherever appearing in cls. (a) to (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3603, 3612, 3617 of this title.

§ 3605. Discrimination in the financing of housing.

After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title. (As amended Pub. L. 93–383, title VIII, §808(b)(2), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93–383 added "sex".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title.

§ 3606. Discrimination in the provision of brokerage services.

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, or national origin. (As amended Pub. L. 93–383, title VIII, § 808(b)(3), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93–383 added "sex".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title.

SUBCHAPTER II.—PREVENTION OF INTIMIDATION

§ 3631. Violations; bodily injury; death; penalties.

Whoever, whether or not acting under color of law, by force or threat of force willfully injuries, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion, sex or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion, sex or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

* * * * *

(As amended Pub. L. 93–383, title VIII, § 808(b)(4), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93–383 added "sex" wherever appearing in cls. (a), (b)(1), and (c).

Chapter 46.—LAW ENFORCEMENT ASSISTANCE AND CRIMINAL JUSTICE

SUBCHAPTER III.—GRANTS FOR LAW ENFORCEMENT AND CRIMINAL JUSTICE PURPOSES

Sec.
3738. Administration action upon State plan within prescribed time after date of submission; presumption of approval; disapproval with reasons and explanation; explanation of supporting material necessary for an evaluation; definition of "date of submission" [New].

SUBCHAPTER V.—ADMINISTRATIVE PROVISIONS

3770. Program or project costs; use of unobligated Federal funds for 90 percent of costs; non-Federal appropriation of non-Federal share of cost [New].
3771. Information available for prescribed purposes [New].
(a) Prohibition against use or revelation of information for other than stated purposes; immunity of copies from legal process; requirement of consent for admission as evidence or for use in judicial or administrative proceedings.
(b) Criminal history information; disposition and arrest data; procedures for current collection, storage, and dissemination; security and privacy; use for lawful purposes; challenge or correction of information of automated system.
(c) Penalties for violations.
3772. Voluntary services [New].
3773. Administration of juvenile delinquency programs by Office of Juvenile Justice and Delinquency Prevention [New].
3774. Officers and employees; selections; employment and compensation [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3888 of this title.

§ 3701. Congressional findings, declarations of policy and statement of purpose.

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources, and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance. It is the purpose of this chapter to (1) encourage States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement and criminal justice; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase

the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 197; Pub. L. 93–415, title V, § 541, Sept. 7, 1974, 88 Stat. 1142.)

AMENDMENTS

1974—Pub. L. 93–415 added third and fifth paragraphs.

1973—First par. Pub. L. 93–83 substituted "To reduce and prevent crime and juvenile delinquency" for "To prevent crime" and "law enforcement and criminal justice efforts" for "law enforcement efforts."

Third par. Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing, and "develop" for "prepare" in item (1) and included in the Congressional declaration of policy the rehabilitation of criminals in item (3).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 3 of Pub. L. 93–83 provided that: "The amendments made by this Act [see Short Title note under this section] shall take effect on and after July 1, 1973, except that the offices and salaries modified under sections 101, 505, and 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act [sections 5108(c)(10), 5314(55), 5315(90), and 5316(133) of Title 5] shall be modified prospectively only, effective on and after the date of the enactment of this Act [Aug. 6, 1973]."

SHORT TITLE

Section 1 of Pub. L. 93–83 provided: "That this Act [which enacted sections 3738, 3770, and 3771 of this title, reenacted sections 3334(a), 3734, 3735, 3745, 3750, 3750a, 3751 to 3755, 3757 to 3759, 3761 to 3765, and 3792 of this title and section 5314(55) of Title 5, renumbered former section 3748 as 3747 and repealed former section 3747 of this title, and amended sections 3701, 3711, 3721 to 3725, 3731 to 3733, 3736, 3737, 3741 to 3744, 3746, 3750b to 3750d, 3756, 3760, 3766 to 3769, 3781, 3791, 3793, and 3795 of this title, sections 5108(c)(10), 5315(90), and 5316(133) of Title 5, and section 484(n) of Title 40] may be cited as the 'Crime Control Act of 1973'."

SUBCHAPTER I.—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

§ 3711. Law Enforcement Assistance Administration.

(a) Establishment; general authority of Attorney General over Administration; membership; appointment.

There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this chapter as "Administration") composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Status of Administrator; Deputy Administrator for Policy Development and Deputy Administrator for Administration designations.

The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 197.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 substituted designation of "Deputy Administrators" for "Associate Administrators" and deleted political representation requirement, namely that beginning after the end of the term of either of the present incumbents, one of the Associate Administrators be a member of a political party other than that of the President.

Subsec. (b). Pub. L. 93–83 substituted provisions which make the Administrator the head of the agency and designated one Deputy Administrator as the Deputy Administrator for Policy Development and another as Deputy Administrator for Administration for prior provisions which made the Administrator the executive head of the agency, required him to exercise all administrative powers, including the appointment and supervision of Administration personnel, and required all of the other functions, powers, and duties created and established by this chapter to be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5603 of this title.

SUBCHAPTER II.—PLANNING GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3732, 3770 of this title.

§ 3721. Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 197.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3722. State planning agencies; establishment and operation; time of applications for grants.

The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this chapter as "State planning agencies") for the preparation, development, and revision of the State plan required under section 3733 of this title. Any State may make application to the Administration for such grants within six months of June 19, 1968. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 198.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3723. Same; general provisions.

(a) Establishment and maintenance; creation or designation by chief executive; representative capacity; composition of State planning agency and regional planning units.

A grant made under this subchapter to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be

created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime and may include representatives of citizen, professional, and community organizations. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations including organizations directly related to delinquency prevention.

(b) Function, powers, and duties of State planning agencies.

The State planning agency shall—

(1) develop, in accordance with subchapter III of this chapter, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice; and

(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State.

(c) Availability of Federal funds to local government units for formulation and development of State plan.

The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this subchapter. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this subchapter. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this subchapter.

(d) Public meetings; notice of time, place, and nature of business; access to other than confidential records

The State planning agency and any other planning organization for the purposes of this chapter shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is taken at that meeting on (A) the State plan, or (B) any application for funds under this chapter. The State planning agency and any other planning organization for the purposes of this chapter shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provisions of local, State, or Federal law. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 198; Pub. L. 93–415, title V, § 542, Sept. 7, 1974, 88 Stat. 1142.)

REFERENCES IN TEXT

For classifications in the Code of this Act, referred to in subsec. (d), meaning the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, see Short Title note set out under section 3701 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 added "including agencies directly related to the prevention and control of juvenile delinquency," following "law enforcement and criminal justice agencies,", and substituted "shall include representatives" for "may include representatives", and added "including organizations directly related to delinquency prevention" following "community organizations".

1973—Subsec. (a). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement", authorized inclusion of representatives of citizens, professional, and community organizations in the State planning agency and any regional planning units within the State, and required such regional planning units to be comprised of a majority of local elected officials.

Subsec. (b)(1)–(3). Pub. L. 93–83 provided for improvement of criminal justice in cls. (1)–(3).

Subsec. (c). Pub. L. 93–83 substituted "law enforcement and criminal justice planning responsibilities" for "law enforcement planning responsibilities".

Subsec. (d). Pub. L. 93–83 added subsec. (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title.

§ 3724. Amount of grant; limitation; State appropriation of moneys for State share of non-Federal funding of expenses; minimum State share.

A Federal grant authorized under this subchapter shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this subchapter, and may be up to 100 per centum of the expenses incurred by regional planning units under this subchapter. The non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this subchapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 199.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "expenses incurred by the State and units of general local government under this subchapter", for "expenses of the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by subchapter III of this chapter", authorized a Federal grant up to 100 per centum of the expenses incurred by regional planning units under this subchapter, and provided that the non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this subchapter.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3725. Allocation of funds.

Funds appropriated to make grants under this subchapter for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate $200,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 199.)

AMENDMENTS

1973—Pub. L. 93–83 increased the amount of money allocated to each State from $100,000 to $200,000.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SUBCHAPTER III.—GRANTS FOR LAW ENFORCEMENT AND CRIMINAL JUSTICE PURPOSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3723, 3724, 3750b, 3768, 3770 of this title.

§ 3731. General provisions.

(a) Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement and criminal justice.

(b) Categories of programs and projects.

The Administration is authorized to make grants to States having comprehensive State plans approved by it under this subchapter, for:

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and criminal justice and reduce crime in public and private places.

(2) The recruiting of law enforcement and criminal justice personnel and the training of personnel in law enforcement and criminal justice.

(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement and criminal justice agencies.

(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

(5) The organization, education, and training of special law enforcement and criminal justice units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

(6) The organization, education, and training of regular law enforcement and criminal justice officers, special law enforcement and criminal justice units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

(7) The recruiting, organization, training, and education of community service officers to serve with and assist local and State law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided,* That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement and criminal justice agency.

(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement and criminal justice activities.

(9) The development and operation of community-based delinquent prevention and correctional programs, emphasizing halfway houses and other community-based rehabilitation centers for initial preconviction or post-conviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

(10) The establishment of interstate metropolitan regional planning units to prepare and coordinate plans of State and local governments and agencies concerned with regional planning for metropolitan areas.

(c) Percentage of grant; limitation; land acquisition prohibition; Federal share for grants to Indian tribes or other aboriginal groups; State appropriation of moneys for State share of non-Federal funding of program costs.

The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum

of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual units of government, for the purpose of the shared funding of such programs or projects.

(d) Compensation of personnel; limitations.

Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 199.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(1)–(3). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing.

Subsec. (b)(4). Pub. L. 93–83 reenacted provisions without change.

Subsec. (b)(5). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (b)(6). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" where appearing first two times in the text.

Subsec. (b)(7), (8). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing.

Subsec. (b)(9). Pub. L. 93–83 substituted "community-based" and "preconviction or post-conviction" for "community based" and "preconviction of postconviction".

Subsec. (b)(10). Pub. L. 93–83 added par. (10).

Subsec. (c). Pub. L. 93–83 deleted former first sentence reading "The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant", increased from 75 to 90 per centum the portion of Federal grant available for program or project cost, deleted introductory text of last sentence reading "Effective July 1, 1972, at least 40 per centum of" and substituted therein "individual units" for "individual unit".

Subsec. (d). Pub. L. 93–83 substituted "law enforcement and criminal justice personnel" and "expended" for "law enforcement personnel" and "expanded".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3734, 3736, 3781 of this title.

§ 3732. State planning agency, establishment; comprehensive State plan, submission.

Any State desiring to participate in the grant program under this subchapter shall establish a State planning agency as described in subchapter II of this chapter and shall within six months after approval of a planning grant under subchapter II of this chapter submit to the Administration through such State planning agency a comprehensive State plan developed pursuant to subchapter II of this chapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 201.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "State plan developed" for "State plan formulated".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3738, 3750a of this title.

§ 3733. State plans.

(a) Comprehensive requirements; expenditure of paragraph (2) funds for improvement of law enforcement and criminal justice.

The Administration shall make grants under this chapter to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this chapter. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 5633 of this title. No state plan shall be approved as comprehensive unless the Admiinstration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive, unless it includes a comprehensive program, whether or not funded under this chapter, for the improvement of juvenile justice. Each such plan shall—

(1) provide for the administration of such grants by the State planning agency;

(2) provide that at least the per centum of Federal assistance granted to the State planning agency under this subchapter for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law

enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this subchapter to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;

(5) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice, plans and systems;

(6) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

(7) provide for research and development;

(8) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

(9) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this subchapter after a reasonable period of Federal assistance;

(10) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

(11) set forth policies and procedures designed to assure that Federal funds made available under this chapter will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

(12) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this chapter;

(13) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 3742(c) of this title programs and projects carried out under this chapter and as the Administration may reasonably require to administer other provisions of this chapter;

(14) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice; and

(15) provide for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this chapter, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date.

Any portion of the per centum to be made available pursuant to paragraph (2) of this section[1] in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available

[1] So in original. Text received subsection designations under provisions of Pub. L. 93–83.

for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

(b) Findings of Administration; awards on basis of population for programs or projects in approved plans.

No approval shall be given to any State plan unless and until the Administration finds that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State. No award of funds which are allocated to the States under this chapter on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

(c) Statewide priorities, special considerations, and court and correctional programs and practices.

No plan shall be approved as comprehensive unless it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this chapter to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 201; Pub. L. 93–415, title V, § 543, Sept. 7, 1974, 88 Stat. 1142.)

REFERENCES IN TEXT

"The Juvenile Justice and Delinquency Prevention Act of 1974" and "that Act" referred to in subsec. (a) is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, which enacted chapter 72 (section 5601 et seq.) of this title. For additional classification, see Short Title note under section 5601 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 added provision relating to compliance of State plans with this section and section 5633 of this title in order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974.

1973—Subsec. (a). Pub. L. 93–83 designated existing provisions as subsec. (a), substituted "law enforcement and criminal justice" for "law enforcement" in introductory text, required the State plan to include a comprehensive program, whether or not funded under this chapter, for improvement of juvenile justice, and made additional changes as described hereunder.

Subsec. (a)(1). Pub. L. 93–83 reenacted provisions without change.

Subsec. (a)(2). Pub. L. 93–83 deleted following introductory "provide that" the text reading "at least 75 per centum of all Federal funds granted to the State planning agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement, except that each such plan shall provide that beginning July 1, 1972,", and substituted "law enforcement and criminal justice" and "one-half" for "law enforcement" and "one-fourth".

Subsec. (a)(3). Pub. L. 93–83 reenacted provisions, substituting "law enforcement and criminal justice" for "law enforcement".

Subsec. (a)(4). Pub. L. 93–83 added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 93–83 redesignated former par. (4) as (5), substituted "law enforcement and criminal justice, dealt with in the plan" and "law enforcement and criminal justice, plans" for "law enforcement dealt with in the plan" and "law enforcement plans" in introductory text and cl. (F), respectively. Former par. (5) redesignated (6).

Subsec. (a)(6)–(9). Pub. L. 93–83 redesignated former pars. (5) to (8) as pars. (6) to (9). Former par. (9) redesignated (10).

Subsec. (a)(10). Pub. L. 93–83 redesignated former par. (9) as (10) and added the concluding words "or combinations of such units". Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 93–83 redesignated former par. (10) as (11) and substituted "law enforcement and criminal justice" for "law enforcement". Former par. (11) redesignated (12).

Subsec. (a)(12). Pub. L. 93–83 redesignated former par. (11) as (12) and substituted "fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this chapter" for "fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this subchapter". Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 93–83 redesignated former par. (12) as (13), and inserted provisions relating to maintenance of data and information by the Institute and the Administration, the time of submission of reports, the submission of data, Institute evaluation of programs and projects carried out under this chapter, and administration of other provisions of this chapter by the Administration.

Subsec. (a)(14), (15). Pub. L. 93–83 added pars. (14) and (15).

Subsecs. (b), (c). Pub. L. 93–83 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3722, 3750b, 5633 of this title.

§ 3734. Applications for financial assistance from local government units; disbursements by State planning agencies.

State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 3731 of this title and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 203.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3735. Reallocation of funds.

Where a State has failed to have a comprehensive State plan approved under this chapter within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 3736(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 3736(a) of this title.

(As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 203.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3736 of this title.

§ 3736. Allocation of funds.

(a) Percentage limitation; land acquisition prohibition; Federal share for grants to Indian tribes or other aboriginal groups; State appropriation and private organization furnishing of moneys for non-Federal share of program or project cost; funding incentives of cooperating States and units of general local government for improvement of law enforcement and criminal justice.

The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Administration as follows:

(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 3735 and 3757 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organizations, according to the criteria and on the terms and conditions the Administration determines consistent with this chapter.

Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 3731 of this title shall apply to a grant under such paragraph. The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.

(b) Reallocation of funds.

If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this subchapter, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 203.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 authorized discretionary award of grants to private nonprofit organizations in par. (2), increased from 75 to 90 per centum of program or project cost the amount of grant that may be made under par. (2), substituted "The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization" for "Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects", and provided for making discretionary grants under par. (2) so as to accord funding incentives to cooperating States and units of general local government for the purpose of improving law enforcement and criminal justice.

Subsec. (b). Pub. L. 93–83 reenacted provisions without change.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3735 of this title.

§ 3737. Priority programs and projects.

In making grants under this subchapter, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate, or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 204.)

AMENDMENTS

1973—Pub. L. 93–83 designated existing subsec. (a) provisions as the entire section and deleted former subsec. (b) provisions, which notwithstanding section 3733 of this title, unitl Aug. 31, 1968, authorized the Administration to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing the programs, projects, and costs of the items for which the grants would be used, and the relationship of the programs and projects to the applicant's general program for the improvement of law enforcement.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3738. Administration action upon State plan within prescribed time after date of submission; presumption of approval; disapproval with reasons and explanation; explanation of supporting material necessary for an evaluation; definition of "date of submission".

Each State plan submitted to the Administration for approval under section 3732 of this title shall be

either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this chapter. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 3732(b)[1] of this title such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term "date of submission" means the date on which a State plan which the State has designated as the "final State plan application" for the appropriate fiscal year is delivered to the Administration. (Pub. L. 90–351, title I, § 308, as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 204.)

EFFECTIVE DATE

Section effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SUBCHAPTER IV.—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3764 of this title.

§ 3741. Statement of purpose.

It is the purpose of this subchapter to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and criminal justice, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 205.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "law enforcement and criminal justice", for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3742. National Institute of Law Enforcement and Criminal Justice.

(a) Establishment; general authority of Administration over Institute; Director of Institute, appointment by Administrator; statement of purpose.

There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this subchapter as "Institute"). The Institute shall be under the general authority of the Administration. The chief administrative officer of the Institute shall be a Director appointed by the Administrator. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel.

[1] So in original. See section 3733 of this title.

(b) Functions, powers, and duties of Institute.

The Institute is authorized—

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this chapter, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice, including, but not limited to, the effectiveness of projects or programs carried out under this chapter;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement and criminal justice;

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this chapter;

(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation under section 3744 of this title. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of Title 5 for persons employed intermittently in the Government service;

(7) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this chapter, including information relating to new or improved approaches, techniques, systems, equipment, and

devices to improve and strengthen law enforcement; and

(8) to establish a research center to carry out the programs described in this section.

(c) National and international clearinghouse for exchange of information; evaluation of programs and projects and dissemination of information; survey; consultation with Federal, criminal justice, and other public and private agencies and use of statistical and other related information; guidelines; report to President, Congress, and non-Federal agencies.

The Institute shall serve as a national and international clearinghouse for the exchange of information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

The Institute shall undertake, where possible, to evaluate the various programs and projects carried out under this chapter to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this chapter, and shall disseminate such information to State planning agencies and, upon request, to units of general local government.

The Institute shall, before the end of the fiscal year ending June 30, 1976, survey existing and future personnel needs of the Nation in the field of law enforcement and criminal justice and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effectiveness and sufficiency of the training and academic assistance programs carried out under this chapter and relate such programs to actual manpower and training requirements in the law enforcement and criminal justice field. In carrying out the provisions of this section, the Director of the Institute shall consult with and make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, Federal, State and local criminal justice agencies and other appropriate public and private agencies. The Administration shall thereafter, within a reasonable time develop and issue guidelines, based upon the need priorities established by the survey, pursuant to which project grants for training and academic assistance programs shall be made.

The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b) of this section, and shall describe in such report the potential benefits of such activities of law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workshops, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b) of this section. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 205.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 provided that the chief administrative officer of the Institute shall be a Director appointed by the Administrator and included in the statement of purpose the improvement and strengthening of criminal justice, dissemination of results of efforts to State and local governments, and assistance in development and support of programs for training law enforcement and criminal justice personnel.

Subsec. (b)(1), (2). Pub. L. 93–83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(3). Pub. L. 93–83 reenacted provisions without change.

Subsec. (b)(4). Pub. L. 93–83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(5). Pub. L. 93–83 reenacted provisions without change.

Subsec. (b)(6). Pub. L. 93–83 added par. (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 93–83 redesignated former par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 93–83 redesignated former par. (7) as (8).

Subsec. (c). Pub. L. 93–83 added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3733, 3744 of this title.

§ 3743. Amount of grant, limitation; contributions requirement.

A grant authorized under this subchapter may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration or the Institute shall require, whenever feasible, as a condition of approval of a grant under this subchapter, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 206.)

AMENDMENTS

1973—Pub. L. 93–83 provided for a contribution requirement by the Institute and substituted "purposes" for "purpose".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3744. F.B.I. law enforcement training programs.

(a) Functions, powers, and duties of Director.

The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement and criminal justice personnel;

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement and criminal justice

personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit; and

(4) cooperate with the Institute in the exercise of its responsibilities under section 3742(b)(6) of this title.

(b) General authority of Attorney General over Director.

In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 207.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" in cls. (1)–(3), provided for the training of personnel "engaged in the investigation of crime and the apprehension of criminals" and deleted "such" preceding "other persons" in cl. (3), and added cl. (4).

Subsec. (b). Pub. L. 93–83 reenacted provisions without change.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3742 of this title.

§ 3745. Repeal of Law Enforcement Assistance Act of 1965; funds for continuation of projects; immediate duties and discretion of Administration.

Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to June 19, 1968, to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this chapter.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

(As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 207.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3746. Academic educational assistance.

(a) Authority of Administration; consultation with Commissioner of Education.

Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement and criminal justice.

(b) Loans; cancellation for service.

The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement and criminal justice or suitable for persons employed in law enforcement and criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement and criminal justice agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

(c) Tuition, books, and fees; service agreements.

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement and criminal justice or an area suitable for persons employed in law enforcement and criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a law enforcement and criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

(d) Teachers.

Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement and criminal justice or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this sec-

tion as determined under regulations of the Administration.

(e) Methods of law enforcement education.

The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

(2) education and training of faculty members;

(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

(f) Internship grants.

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program. (As amended Pub. L. 93–83 § 2, Aug. 6, 1973, 87 Stat. 207.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (b). Pub. L. 93–83 increased amount of loan per semester from $1,800 to $2,200 and substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (c). Pub. L. 93–83 increased allowance per academic quarter and per semester from $200 to $250 and $300 to $400 and substituted "law enforcement and criminal justice" for "law enforcement" following "area related to" and "persons employed in" and "a law enforcement and criminal justice agency" for "the law enforcement agency".

Subsec. (d). Pub. L. 93–83 substituted "law enforcement and criminal justice" for "law enforcement" where first appearing.

Subsec. (e). Pub. L. 93–83 reenacted provisions, substituting "law enforcement and criminal justice" for "law enforcement" in introductory text, and cls. (1) and (3).

Subsec. (f). Pub. L. 93–83 increased amount of grant from $50 to $65 per week and substituted "law enforcement and criminal justice" for "law enforcement" agencies.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3747. Administration training programs for prosecuting attorneys.

(a) Objectives.

The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local officers engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

(b) Travel expenses and allowances.

While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of Title 5 for persons employed intermittently in the Government service.

(c) Funds for training costs.

The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training. (Pub. L. 90–351, title I, § 407, formerly § 408, as added Pub. L. 91–644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, and renumbered Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 209.)

CODIFICATION

A prior section 3747, Pub. L. 90–351, title I, § 407, as added Pub. L. 91–544, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, which related to Administration law enforcement training program for enforcement personnel, was omitted in the general amendment of title I of Pub. L. 90–351 by section 2 of Pub. L. 93–83.

§ 3748. Administration training programs for prosecuting attorneys.

Section, Pub. L. 90–351, title I, § 408, as added Pub. L. 91–644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, was renumbered section 407 of Pub. L. 90–351 and is now classified to section 3747 of this title.

SUBCHAPTER IV–A.—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

§ 3750. Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 209.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3750a. Applications for grants; incorporation in comprehensive State plan.

A State desiring to receive a grant under this subchapter for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 3750c of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 3732 of this title. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 209.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3750b. Same; comprehensive requirements.

The Administration is authorized to make a grant under this subchapter to a State planning agency

if the application incorporated in the comprehensive State plan—

(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

(2) provides satisfactory assurances that the control of the funds and the title to property derived therefrom shall be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer those funds and that property;

(3) provides satisfactory assurances that the availability of funds under this subchapter shall not reduce the amount of funds under subchapter III of this chapter which a State would, in the absence of funds under this subchapter, allocate for purposes of this subchapter;

(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

(5) provides for advanced techniques in the design of institutions and facilities;

(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

(9) provides necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics, or alcohol abusers;

(10) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (5), (6), (8), (9), (10), (11), (12), (13), (14), and (15) of section 3733(a) of this title;

(11) provides for accurate and complete monitoring of the progress and improvement of the correctional system. Such monitoring shall include rate of prisoner rehabilitation and rates of recidivism in comparison with previous performance of the State or local correctional systems and current performance of other State and local prison systems not included in this program; and

(12) provides that State and local governments shall submit such annual reports as the Administrator may require.

(As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 209.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted introductory text and pars. (1) to (8) without change, deleted "and" at end of par. (8), added par. (9), redesignated former par. (9) as (10) and added therein references to pars. (13) to (15) and deleted therefrom references to pars. (4) and (7) of section 3733 of this title, and added pars. (11) and (12).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3750c. Basic criteria for applicants and grantees; guidelines.

The Administration shall, after consultation with the Federal Bureau of Prisons, by regulations prescribe basic criteria for applicants and grantees under this subchapter.

In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned. The Administrator shall coordinate or assure coordination of the development of such guidelines with the Special Action Office For Drug Abuse Prevention. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 210.)

AMENDMENTS

1973—Pub. L. 93–83 added provisions respecting issuance of guidelines for drug treatment programs in State and local prisons and for coordination of development of the guidelines.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Provisions establishing the Special Action Office for Drug Abuse Prevention, authorizing the appointment of a Director, etc., and setting forth the powers, functions, and duties of the Office and Director were classified to sections 1111 to 1143 of Title 21, Food and Drugs, prior to repeal of such sections and abolition of the Office and each position in the Office of Director, etc., by Pub. L. 92–255, title I, § 104, Mar. 21, 1972, 86 Stat. 67, eff. June 30, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3750a of this title.

§ 3750d. Allocation of funds.

(a) Percentage limitation; State appropriation of moneys for State share of non-Federal funding of program costs; land acquisition prohibition.

The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Administration as follows:

(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this subchapter.

Any grant made from funds available under this subchapter may be up to 90 per centum of the cost

of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this subchapter may be used for land acquisition.

(b) Reallocation of funds

If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not required by the applicant or will become available by virtue of the application of the provisions of section 3757 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 210.)

AMENDMENTS

1973—Subsec. (a). Pub. 93–83 substituted "50" for "fifty" in cl. (2), increased amount of grant from 75 to 90 per centum of program or project cost, and provided that the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government.

Subsec. (b). Pub. L. 93–83 reenacted provisions without change.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SUBCHAPTER V.—ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3768, 3770 of this title.

§ 3751. Rules, regulations, and procedures.

The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this chapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3781 of this title.

§ 3752. Delegation of functions.

The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3753. Transfer of functions, powers, and duties of Administration within Department of Justice.

The functions, powers, and duties specified in this chapter to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3754. Place in United States for hearings, subpenas, oaths, examination of witnesses, and reception of evidence.

In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3755. Officers and employees.

Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this chapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3756. Use of services, equipment, personnel, and facilities of other Federal agencies; Central Intelligence Agency exclusion; reimbursement; reciprocal use by such other Federal agencies; availability of State agency cooperation, services, records, and facilities; use of donated or transferred property for testing purposes.

The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government (not including the Central Intelligence Agency), and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this chapter, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 made provisions inapplicable to Central Intelligence Agency.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3757. Withholding of payments for noncompliance with certain requirements; notice and hearing.

Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this chapter, finds that, with respect to any payments made or to be made under this chapter, there is a substantial failure to comply with—

(a) the provisions of this chapter;

(b) regulations promulgated by the Administration under this chapter; or

(c) a plan or application submitted in accordance with the provisions of this chapter;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3736, 3750d, 3759, 3766, 5633 of this title.

§ 3758. Administration proceedings.

(a) Finality of action.

In carrying out the functions vested by this chapter in the Administration, the determinations, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

(b) Notice and hearing.

If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this chapter, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant, the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

(c) Rehearing; additional information.

If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 212.)

AMENDMENTS

1973—Pub. L. 93–83 designated existing subsec. (a) change, but inserted in subsec. (b) a comma following "on an application or a grant".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3759, 5633 of this title.

§ 3759. Judicial review.

(a) Petition; record.

If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this chapter, or any applicant or grantee is dissatisfied with the Administration's final action under section 3757 or section 3758 of this title, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of Title 28.

(b) Conclusiveness of determinations.

The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Jurisdiction of courts of appeals; review by Supreme Court.

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 212.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title.

§ 3760. Duration of programs.

Unless otherwise specified in this chapter, the Administration shall carry out the programs provided for in this chapter during the fiscal year ending June 30, 1974, and the two succeeding fiscal years. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Pub. L. 93–83 extended period for execution of programs under this chapter from the period during the fiscal year ending June 30, 1968, and the five succeeding fiscal years to the period during the fiscal year ending June 30, 1974, and the two succeeding fiscal years.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3761. Coordination of law enforcement assistance and related Federal programs; statistics, etc., from other Federal agencies.

To insure that all Federal assistance to State and local programs under this chapter is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this chapter. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this chapter shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change, deleting a comma following "practicable".

§ 3762. Reimbursement of other Federal agencies.

The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this chapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3763. Functions, powers, and duties of Administration; grants or contracts for expenditure of funds.

The Administration is authorized—

(a) to conduct evaluation studies of the programs and activities assisted under this chapter;

(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions, substituting in item (b) "within and without the United States" for "in the several States" and authorizing cooperation with internation agencies in item (c), substituting in such item (c) "law enforcement and criminal justice" for "law enforcement".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 2151j, 2420.

§ 3764. Payments.

(a) Installments; advances or reimbursement; payment of expenses for attending conferences or other assemblages notwithstanding prohibition of section 551 of Title 31.

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled "Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings" (section 551 of Title 31).

(b) Maximum sum for any one State.

Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this chapter may be used within any one State except that this limitation shall not apply to grants made pursuant to subchapter IV of this chapter. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 reenacted provisions, substituting "joint resolution" for "Joint Resolution".

Subsec. (b). Pub. L. 93–83 reenacted provisions without change.

§ 3765. Personnel.

(a) Experts and consultants; employment and compensation.

The Administration may procure the services of experts and consultants in accordance with section 3109 of Title 5 at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of Title 5.

(b) Advisory committees; appointment, compensation, and travel expenses.

The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this chapter as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of Title 5 and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistance, as authorized by section 5703 of such Title 5 for persons in the Government service employed intermittently. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 213.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86

Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3766. Construction unauthorized.

(a) Federal direction, supervision or control of State policy force or other law enforcement agency.

Nothing contained in this chapter or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

(b) Administration achievement or elimination of racial balance or imbalance through adoption of percentage ratio, quota system or other program.

Notwithstanding any other provision of law nothing contained in this chapter shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this chapter of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this chapter to adopt such a ratio, system, or other program.

(c) Discrimination prohibition; remedies of Administration for noncompliance with paragraph (1); civil action, including injunction, by Attorney General for violation of section.

(1) No person in any State shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter.

(2) Whenever the Administration determines that a State government or any unit of general local government has failed to comply with paragraph (1) of this subsection or an applicable regulation, it shall notify the chief executive of the State of the noncompliance and shall request the chief executive to secure compliance. If within a reasonable time after such notification the chief executive fails or refuses to secure compliance, the Administration shall exercise the powers and functions provided in section 3757 of this title, and is authorized concurrently with such exercise—

(A) to institute an appropriate civil action;

(B) to exercise the powers and functions pursuant to title VI of the Civil Rights Act of 1964 (section 2000d of this title); or

(C) to take such other action as may be provided by law.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 214.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "law enforcement and criminal justice agency" for "law enforcement agency."

Subsec. (b). Pub. L. 93–83 reenacted provisions without change.

Subsec. (c). Pub. L. 93–83 added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3767. Reports to President and Congress.

On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this chapter during the preceding fiscal year. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 214.)

AMENDMENTS

1973—Pub. L. 93–83 designated existing subsec. (a) provisions as the entire section and eliminated former subsec. (b) provisions requiring the Administration, not later than May 1, 1971, to submit to the President and Congress recommendations for legislation to assist in the purposes of this chapter with respect to promoting the integrity and accuracy of criminal justice data collection, processing, and dissemination systems funded in whole or in part by the Federal Government, and protecting the constitutional rights of all persons covered or affected by such systems.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3768. Authorization of appropriations.

(a) There are authorized to be appropriated such sums as are necessary for the purposes of each subchapter of this chapter, but such sums in the aggregate shall not exceed $1,000,000,000 for the fiscal year ending June 30, 1974, $1,000,000,000 for the fiscal year ending June 30, 1975, and $1,250,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of subchapter V of this chapter an amount equal to not less than 20 per centum of the amount allocated for the purposes of subchapter III of this chapter.

(b) In addition to the funds appropriated under section 5671 of this title, the Administration shall expend from other Law Enforcement Assistance Administration appropriations, other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs as was expended by the Administration during fiscal year 1972. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 93–415, title V, § 544, Sept. 7, 1974, 88 Stat. 1142.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 designated existing provisions as subsec. (a), and added subsec. (b).

1973—Pub. L. 93–83 substituted provisions authorizing necessary appropriations for each subchapter of this chapter, limiting the amounts to one billion, one billion, and one and one-quarter billion dollars for fiscal years ending June 30, 1974, 1975, and 1976, respectively, for former appropriations authorization of $650,000,000; $1,150,000,000; and $1,750,000,000 for fiscal years ending June 30, 1971, 1972, and 1973, respectively, and also making $120,000,000 available for subchapter V purposes for fiscal year ending June 30, 1971.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3769. Recordkeeping requirements.

(a) Scope of information.

Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Administration access to records for audits and examinations.

The Administration or any of its duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(c) Comptroller General access to records for audits and examinations.

The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers and records of recipients of Federal assistance under this chapter which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this chapter.

(d) Primary grants or contracts and subgrants or subcontracts.

The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 215.)

REFERENCES IN TEXT

For classifications in the Code of this Act, referred to in subsecs. (a) and (d), meaning the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, see Short Title note set out under section 3701 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 reenacted provisions without change.

Subsec. (b). Pub. L. 93–83 substituted "Administration or any of its duly authorized representatives" for "Administration and the Comptroller General of the United States, or any of their duly authorized representatives".

Subsec. (c). Pub. L. 93–83 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–83 redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment of Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3770. Program or project costs; use of unobligated Federal funds for 90 percent of costs; non-Federal appropriation of non-Federal share of costs.

Any funds made available under subchapters II, III, and V of this chapter prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government. (Pub. L. 90–351, title I, § 523, as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 215.)

EFFECTIVE DATE

Section effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3771. Information available for prescribed purposes.

(a) Prohibition against use or revelation of information for other than stated purposes; immunity of copies from legal process; requirement of consent for admission as evidence or for use in judicial or administrative proceedings.

Except as provided by Federal law other than this chapter, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this chapter shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this chapter. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(b) Criminal history information; disposition and arrest data; procedures for current collection, storage, and dissemination; security and privacy; use for lawful purposes; challenge or correction of information of automated system.

All criminal history information collected, stored, or disseminated through support under this chapter shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this chapter, shall, upon satisfaction verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

(c) Penalties for violations.

Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to

any other penalty imposed by law. (Pub. L. 90–351, title I, § 524, as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 215.)

EFFECTIVE DATE

Section effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3772. Voluntary services.

The Administrator is authorized to accept and employ, in carrying out the provisions of this chapter voluntary and uncompensated services notwithstanding the provisions of section 665(b) of Title 31. (Pub. L. 90–351, title I, § 526, as added Pub. L. 93–415, title V, § 545, Sept. 7, 1974, 88 Stat. 1143.)

§ 3773. Administration of juvenile delinquency programs by Office of Juvenile Justice and Delinquency Prevention.

All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 5611(a) of this title. (Pub. L. 90–351, title I, § 527, as added Pub. L. 93–415, title V, § 545, Sept. 7, 1974, 88 Stat. 1143.)

§ 3774. Officers and employees; selection; employment and compensation.

(a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) Notwithstanding the provisions of section 5108 of Title 5, and without prejudice with respect to the number of positions otherwise placed in the Administration under such section 5108, the Administrator may place three positions in GS–16, GS–17, and GS–18 under section 5332 of such Title 5. (Pub. L. 90–351, title I, § 528, as added Pub. L. 93–415, title V, § 545, Sept. 7, 1974, 88 Stat. 1142.)

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 3781. Definitions.

As used in this subchapter—

(a) Law enforcement and criminal justice.

"Law enforcement and criminal justice" means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(b) Organized crime.

"Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) State.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(d) Unit of general local government.

"Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this chapter: *Provided, however*, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

(e) Combination.

"Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) Construction.

"Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(g) State organized crime prevention council.

"State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this chapter, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(h) Metropolitan area.

"Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(i) Public agency.

"Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(j) Institution of higher education.

"Institution of higher education" means any such institution as defined by section 1141(a) of Title 20,

subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(k) Community service officer.

"Community service officer" means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part and meeting such other qualifications promulgated in regulations pursuant to section 3751 of this title as the Administration may determine to be appropriate to further the purposes of section 3731 (b) (7) of this title and this Act.

(*l*) Correctional institution or facility.

The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

(m) Comprehensive.

The term "comprehensive" means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

(n) Treatment.

The term "treatment" includes but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

(o) Criminal history information.

"Criminal history information" includes records and related data, contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 216.)

REFERENCES IN TEXT

The District of Columbia Court Reform and Criminal Procedure Act of 1970, referred to in subsec. (d), refers to Pub. L. 91–358, July 29, 1970, 84 Stat. 473, which is classified to sections 11–101 et seq., and 23–101 et seq. of the District of Columbia Code.

For classifications in the Code of this Act, referred to in subsec. (k), meaning the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, see Short Title note set out under section 3701 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 included criminal justice in the term defined "Law enforcement and criminal justice" and provided for consideration of prosecutorial and defender services as related agencies.

Subsecs. (b), (c). Pub. L. 93–83 reenacted provisions without change.

Subsec. (d). Pub. L. 93–83 reenacted provisions, substituting ": Provided, however" for "; provided, however"

Subsecs. (e) to (j). Pub. L. 93–83 reenacted provisions without change.

Subsec. (k). Pub. L. 93–83 reenacted provisions, substituting "part and meeting" for "part, and meeting" and "Administration" for "administration".

Subsec. (*l*). Pub. L. 93–83 reenacted provisions without change.

Subsecs. (m) to (o). Pub. L. 93–83 added subsecs. (m) to (o).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SUBCHAPTER VII.—CRIMINAL PENALTIES

§ 3791. Embezzlement, theft and fraud; endeavoring such offenses; reception, concealment, or retention and conversion.

Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both. (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 218.)

AMENDMENTS

1973—Pub. L. 93–83 included offenses of endeavoring to embezzle, willfully misapply, steal or obtain by fraud the funds, assets, or property which are the subject of a grant or contract or other form of statutory assistance and of receiving, concealing, or retaining such property with intent to convert the same to his use or gain, knowing the same to have been embezzled, willfully misapplied, stolen, or obtained by fraud.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

§ 3792. Fraudulent and false statements or entries.

Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this chapter or in any records required to be maintained pursuant to this chapter

shall be subject to prosecution under the provisions of section 1001 of Title 18. (Pub. L. 90–351, title I, § 652, as added Pub. L. 91–644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93–83 § 2, Aug. 6, 1973, 87 Stat. 218.)

AMENDMENTS

1973—Pub. L. 93–83 reenacted provisions without change.

§ 3793. Conspiracies.

Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of Title 18. (Pub. L. 90–351, title I, § 653, as added Pub. L. 91–644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 218.)

AMENDMENTS

1973—Pub. L. 93–83 substituted "law enforcement and criminal justice program or project" for "law enforcement program or project".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

SUBCHAPTER VIII.—REPORT ON FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

§ 3795. Biennial report to President and Congress; contents; Federal assistance programs relating to crime prevention and control covered.

The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each second fiscal year shall submit to the President and to the Congress a Report of Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act of 1968, the Gun Control Act of 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance). (As amended Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 218.)

REFERENCES IN TEXT

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in the text, is classified to chapter 119 (section 2510 et seq.) of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1973—Pub. L. 93–83 substituted "each second fiscal year" and "a Report of" for "each fiscal year" and "an Annual Report on".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–83 effective on and after July 1, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of this title.

Chapter 47.—JUVENILE DELINQUENCY PREVENTION AND CONTROL

Sec.
3801. Congressional findings and declaration of purpose.

SUBCHAPTER I.—PREVENTIVE SERVICES AND DEMONSTRATION PROGRAMS

PART A.—COMMUNITY-BASED COORDINATED YOUTH SERVICES

3811. Congressional statement of purpose.
3812. Grants for planning programs; applications for grants.
3813. Use of funds [New].
3814. Considerations for approval of applications [New].

PART B.—DEMONSTRATIONS IN YOUTH DEVELOPMENT

3821. Grants to States, agencies, etc.; purpose; application; contents; duration [New].

SUBCHAPTER II.—TRAINING

3861. Project grants and contracts.
3862. Recipients and conditions.

SUBCHAPTER III.—TECHNICAL ASSISTANCE AND INFORMATION SERVICES

3871. Technical assistance.
3872. State assistance to local units.
3873. Information and other services.
3874. Information services.

SUBCHAPTER IV.—ADMINISTRATION

3881. Payment procedure.
3882. Authorization of appropriations.
3883. Amounts available to each State.
3884. Labor standards.
3885. Evaluation.
3886. Judicial review.
3887. Joint funding.
3888. Coordination.
3889. Repealed.
3890. General provisions.
3891. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3795, 5614 of this title.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in provisions set out as a note under section 3–204 of the District of Columbia Code.

§ 3801. Congressional findings and declaration of purpose.

The Congress finds that delinquency among youths constitutes a national problem which can best be met by providing assistance to and encouraging the coordination of efforts by public and nonprofit private agencies engaged in preventing juvenile delinquency. It is, therefore, the purpose of this chapter to help States and local communities in providing community based preventive services, including diagnosis and treatment, to youths who are in danger of becoming delinquent, to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, and to provide technical assistance in such field. (Pub. L. 90–445, § 2, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3801, Pub. L. 90–445, § 2, July 31, 1968, 82 Stat. 462.

EFFECTIVE DATE

Section 3 of Pub. L. 92–381 provided that: "The amendments made by sections 1 [adding this chapter] and 2

[which amended the title of Pub. L. 90–445] of this Act shall be effective July 1, 1972."

SHORT TITLE

Section 1 of Pub. L. 90–445, as amended by Pub. L. 92–381 provided: "That this Act [this chapter] may be cited as the 'Juvenile Delinquency Prevention Act'."

SHORT TITLE OF 1971 AMENDMENT

Section 1 of Pub. L. 92–31, June 30, 1971, 85 Stat. 84, provided: "That this Act [which amended sections 3822, 3823(a), 3882, and 3887 of this title] may be cited as the 'Juvenile Delinquency Prevention and Control Act Amendments of 1971'."

SUBCHAPTER I.—PREVENTIVE SERVICES AND DEMONSTRATION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3871, 3882, 3883 of this title.

PART A.—COMMUNITY-BASED COORDINATED YOUTH SERVICES

§ 3811. Congressional statement of purpose.

The purpose of this part is to assist States, local educational agencies, and other public and nonprofit private agencies to establish and carry out community-based programs, including programs in schools, for the prevention of delinquency in youths. (Pub. L. 90–445, title I, § 101, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532, and amended Pub. L. 93–415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

CODIFICATION

A prior section 3811, Pub. L. 90–445, title I, § 101, July 31, 1968, 82 Stat. 463, related to the Secretary's authority to make grants for state and local planning. See section 3812 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 3821 and 3831, Pub. L. 90–445, title I, §§ 111, 121, July 31, 1968, 82 Stat. 463, 465.

AMENDMENTS

1974—Pub. L. 93–415 substituted "part" for "subchapter".

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3812. Grants for planning programs; applications for grants.

(a) The Secretary is authorized to make grants to, or contracts with, public or nonprofit private agencies to meet all or part of the cost of establishing or operating, including the cost of planning, programs designed to carry out the purposes of this part.

(b)(1) Grants and contracts under this part may be made only upon application to the Secretary by a public or nonprofit private agency, which contains or is accompanied by satisfactory assurances that—

(A) steps have been or will be taken toward the provision, within a reasonable period of time, of a program of coordinated youth services in the area served which will make a substantial contribution toward the prevention of delinquency of youths, including the diagnosis and treatment of youths in danger of becoming delinquent;

(B) such applicant agency will make special efforts to assure that the services provided by the program will be available for youths with the most serious behavioral problems;

(C)(i) such applicant agency (if it is not a local educational agency) has consulted on its application with the local educational agencies and nonprofit private schools in the area to be served and has adopted procedures to coordinate its program with related efforts being made by these agencies and schools;

(ii) such applicant agency will provide, to the extent feasible, for coordinating, on a continuing basis, its operations with the operations of other agencies and nonprofit private organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

(D) such applicant agency will make reasonable efforts to secure or provide any services which are necessary for diagnosing and treating youths in danger of becoming delinquent and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

(E) maximum use will be made under the program of other Federal, State, or local resources available for the provision of such services;

(F) local educational agencies and other public and private agencies and organizations providing youth services in the geographic area to be served by the applicant will be consulted in the formulation by the applicant of the program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part;

(G) in developing coordinated youth services, youth and public or private agencies, and organizations providing youth services within the geographic area to be served by the applicant will be given the opportunity to present their views to the applicant with respect to such development; and

(H) the applicant agency will be responsible for organizing, maintaining, and facilitating accessibility to all available youth services.

(2) Such application shall contain such information as may be necessary to carry out the purposes of this part, including—

(A) a description of the services for youths who are in danger of becoming delinquent and which are available in the State or community;

(B) a statement of the method or methods of linking the agencies and organizations, public and private, providing these and other services, including local educational agencies and nonprofit private schools;

(C) the functions and services to be included;

(D) the procedures which will be established for protecting the rights, under Federal, State, and local law, of the recipients of youth services, and for insuring appropriate privacy with respect to records relating to such services, provided to any individual under coordinated youth services developed by the applicant;

(E) the procedures which will be established for evaluation; and

(F) the strategy for phasing out support under this chapter and the continuance of a proven program through other means.

(Pub. L. 90–445, title I, § 102, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532, and amended Pub. L. 93–415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

CODIFICATION

A prior section 3812, Pub. L. 90–445, title I, § 102, July 31, 1968, 82 Stat. 463, also related to grants for planning projects or programs.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (b) of this section were contained in former sections 3822, 3823, 3832, 3833, Pub. L. 90–445, title I, §§ 112, 113, 122, 123, July 31, 1968, 82 Stat. 464, 465.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 substituted "part" for "subchapter".

Subsec. (b)(1). Pub. L. 93–415 substituted "part" for "subchapter".

Subsec. (b)(2). Pub. L. 93–415 substituted "part" for "subchapter".

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3813. Use of funds.

(a) Funds paid to any agency (whether directly or through a State agency) under this part may be used for—

(1) meeting the cost of securing or providing services designed to carry out the purposes of this part, but only to the extent and for the period reasonably necessary for the community to provide such services; and

(2) meeting not to exceed 50 per centum of the cost of construction of community-based special purpose or innovative types of facilities which, in the judgment of the Secretary, are necessary for carrying out the purposes of this part, including community-based special purpose or innovative (A) halfway houses for youths who because of special behavioral problems have a high risk of becoming delinquent; and (B) small, residential facilities for the diagnosis and treatment of youths who are in danger of becoming delinquent. In developing plans for such facilities, due consideration shall be given to excellence of architecture and design.

(b) No grant or contract may be made under this part with respect to any coordinated youth service system for a period of time exceeding three years, except that the Secretary may, in any case in which he determines that it would not be feasible for the coordinated youth service system to continue to function unassisted under this part, extend assistance for such additional years as he determines to be necessary. (Pub. L. 90–445, title I, § 103, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 533, and amended Pub. L. 93–415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3843, Pub. L. 90–445, title I, § 133, July 31, 1968, 82 Stat. 468.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 substituted "part" for "subchapter".

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3814. Considerations for approval of applications.

(a) In determining whether or not to approve applications for grants or contracts under this part, the Secretary shall consider, in the State or community of the applicant—

(1) the relative costs and effectiveness of the program in effectuating the purposes of such part;

(2) the incidence of and rate of increase in youth offenses and juvenile delinquency;

(3) school dropout rates;

(4) the adequacy of existing facilities and services for carrying out the purposes of such part;

(5) the extent of comprehensive planning in the community for carrying out the purposes of such part;

(6) youth unemployment rates;

(7) the extent to which proposed programs incorporate new or innovative techniques within the State or community to carry out the purposes of such part;

(8) the extent to which the proposed programs will make effective use of the facilities and services of the appropriate local educational agencies;

(9) the extent to which the proposed programs incorporate participation of the parents of youths who are in danger of becoming delinquent, as well as the participation of other adults who offer guidance or supervision to such youths; and

(10) the extent to which the proposed programs will be coordinated with similar programs assisted under other Federal laws related to the purposes of this part.

(b) The Secretary, in making grants or contracts under this part, shall give priority to applicants serving communities which exhibit to the highest degrees the factors listed in paragraphs (2), (3), and (6) of subsection (a) of this section. (Pub. L. 90–445, title I, § 104, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 534, and amended Pub. L. 93–415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–415 substituted "part" for "subchapter" in text preceding par. (1), and in pars. (1), (4), (5), (7) and (10).

Subsec. (b). Pub. L. 93–415 substituted "part" for "subchapter".

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a not under section 3801 of this title.

PART B.—DEMONSTRATION IN YOUTH DEVELOPMENT

§ 3821. Grants to States, agencies, etc.; purpose; application; contents; duration.

(a) For the purpose of assisting the demonstration of innovative approaches to youth development and the prevention and treatment of delinquent behavior (including payment of all or part of the costs of minor remodeling or alteration), the Secretary may make grants to any State (or political subdivision thereof), any agency thereof, and any nonprofit private agency, institution, or organization that submits to the Secretary, at such time and in such form and manner as the Secretary's regulations shall prescribe,

an application containing a description of the purposes for which the grant is sought, and assurances satisfactory to the Secretary that the applicant will use the grant for the purposes for which it is provided, and will comply with such requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations, standards, and procedures, as the Secretary may impose to assure the fulfillment of the purposes of this chapter.

(b) No demonstration may be assisted by a grant under this section for more than one year. (Pub. L. 90–445, title I, § 105, as added Pub. L. 93–415, title IV, § 401(4), Sept. 7, 1974, 88 Stat. 1130.)

PRIOR PROVISIONS

A prior section 3821, Pub. L. 90–445, title I, § 111, July 31, 1968, 82 Stat. 463, setting out the Congressional statement of purpose of rehabilitative services, was omitted in the general revision of Pub. L. 90–445 by Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3811 of this title.

§§ 3822, 3823. Omitted.

CODIFICATION

Sections, Pub. L. 90–445, title I, §§ 112, 113, 82 Stat. 463, 464, were omitted in the general revision of Pub. L. 90–445 by Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532.

Section 3822, as amended by Pub. L. 92–31, § 2(a), June 30, 1971, 85 Stat. 84, related to the authorization of grants. See section 3812 of this title.

Section 3823, as amended by Pub. L. 92–31, § 2(b), June 30, 1971, 85 Stat. 84, related to assurances and information required to be presented in applications for grants. See section 3812 of this title.

§§ 3831 to 3833. Omitted.

CODIFICATION

Sections, Pub. L. 90–445, title I, §§ 121, 122, 123, 82 465, were omitted in the general revision of Pub. L. 90–445 by Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532.

Section 3831 related to Congressional statement of purpose of preventive services. See section 3811 of this title.

Section 3832 related to authorization of grants. See section 3812 of this title.

Section 3833 related to assurances and information required to be presented in application for grants. See section 3812 of this title.

§§ 3841 to 3845. Omitted.

CODIFICATION

Sections, Pub. L. 90–445, title I, §§ 131 to 135, were omitted in the general revision of Pub. L. 90–445 by Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 532.

Section 3841 related to requirements, procedure for approval, and approval of State plans for grants.

Section 3842 related to making of grants directly to public and other agencies. See section 3812 of this title.

Section 3843 related to the use of funds and labor standards. See section 3813 and 3884 of this title.

Section 3844 related to submission of copies of applications for grants to State officials and evaluation of projects by them.

Section 3845 related to considerations for approval of applications. See section 3814 of this title.

SUBCHAPTER II.—TRAINING

§ 3861. Project grants and contracts.

The Secretary is authorized, with the concurrence of the Secretary of Labor, to make grants to, or contracts with, public or nonprofit private agencies for projects for the training of personnel employed in or preparing for employment in fields related to the diagnosis and treatment of youths who are in danger of becoming delinquent, and for the counseling or instruction of parents in the improving of parental instruction and supervision of youths who are in danger of becoming delinquent. Such projects shall include special programs which provide youths and adults with training for career opportunities, including new types of careers, in such fields. Such projects may include, among other things, development of courses of study and of interrelated curricula in schools, colleges, and universities, establishment of short-term institutes for training at such schools, colleges, and universities, inservice training and traineeships with such stipends, including allowances for travel and subsistence expenses, as the Secretary may determine to be necessary. (Pub. L. 90–445, title II, § 201, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 534.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3861, Pub. L. 90–445, title II, § 201, July 31, 1968, 82 Stat. 470.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3862. Recipients and conditions.

Such grants may be made to and such contracts may be made with any Federal, State, or local public agency or any nonprofit private agency; and to the extent he deems it appropriate, the Secretary shall require the recipient of any such grant or contract to contribute money, facilities, or services for carrying out the projects for which the grant or contract is made. (Pub. L. 90–445, title II, § 202, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3862, Pub. L. 90–445, title II, § 202, July 31, 1968, 82 Stat. 470.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

SUBCHAPTER III.—TECHNICAL ASSISTANCE AND INFORMATION SERVICES

§ 3871. Technical assistance.

The Secretary is authorized to cooperate with and, either directly or through grants to or contracts with any public agency or nonprofit private agency, render technical assistance to State, local, or other public or private agencies or organizations in matters relating to prevention of delinquency, and to provide short-term training and instruction of a technical nature with respect to such matters. Particular emphasis should be placed on providing technical assistance in the development of juvenile delinquency components or plans under subchapter I of this chapter. (Pub. L. 90–445, title III, § 301, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535.)

CODIFICATION

A prior section 3871, Pub. L. 90–445, title III, § 301, July 31, 1968, 82 Stat. 470 related to the development of improved techniques and practices for the prevention of juvenile delinquency.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3872, Pub. L. 90–445, title III, § 301, July 31, 1968, 82 Stat. 470.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3872. State assistance to local units.

The Secretary is authorized to make grants to any State agency which is able and willing to provide technical assistance to local public agencies and nonprofit agencies engaged in or preparing to engage in activities for which aid may be provided under this chapter. No such grant may exceed 90 per centum of the cost of the activities of the State agency with respect to which such grant is made. (Pub. L. 90–445, title III, § 302, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535.)

CODIFICATION

A prior section 3872, Pub. L. 90–445, title III, § 302, July 31, 1968, 82 Stat. 471 related to technical assistance for the prevention of juvenile delinquency. See section 3871 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3873, Pub. L. 90–445, title III, § 303, July 31, 1968, 82 Stat. 471.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3873. Information and other services.

The Secretary shall collect, evaluate, publish, and disseminate information and materials relating to research and programs and projects conducted under this chapter, and any other matters relating to prevention or treatment of delinquency, such information and materials to be for the general public and for agencies, organizations, and personnel engaged in programs concerning youths who are delinquent or in danger of becoming delinquent. (Pub. L. 90–445, title III, § 303, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535.)

CODIFICATION

A prior section 3873, Pub. L. 90–445, title III, § 303, July 31, 1968, 82 Stat. 471 related to state assistance to local units. See section 3872 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3874, Pub. L. 90–445, title III, § 304, July 31, 1968, 82 Stat. 471.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3874. Information services.

CODIFICATION

Section 3874, Pub. L. 90–445, title III, § 304, July 31, 1968, 82 Stat. 471, relating to information services was omitted in the general revision of this chapter by Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535, and is now covered by section 3873 of this title.

SUBCHAPTER IV.—ADMINISTRATION

§ 3881. Payment procedure.

Payments of any grant or any contract under this chapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in installments, and in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made on such conditions as he finds necessary to carry out the purposes for which the grant or contract is made. (Pub. L. 90–445, title IV, § 401, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 535.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3881, Pub. L. 90–445, title VI, § 401, July 31, 1968, 82 Stat. 471.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3882. Authorization of appropriations.

There are authorized to be appropriated for grants and contracts under this chapter, to the Department of Health, Education, and Welfare, $75,000,000 a year for the fiscal year 1973 and for the succeeding fiscal year and such sums as may be necessary for fiscal year 1975. At least 80 per centum of the amount appropriated for each such fiscal year shall be used for funding programs under subchapter I of this chapter, of which no more than 10 per centum may be used to meet costs of construction. (Pub. L. 90–445, title IV, § 402, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 536, and amended Pub. L. 93–415, title IV, § 404, Sept. 7, 1974, 88 Stat. 1133.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3882, Pub. L. 90–445, title IV, § 402, July 31, 1968, 82 Stat. 471, as amended by Pub. L. 92–31, § 3, June 30, 1971, 85 Stat. 84.

AMENDMENTS

1974—Pub. L. 93–415 added "and such sums as may be necessary for fiscal year 1975", following "fiscal year".

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3885 of this title.

§ 3883. Amounts available to each State.

Payments pursuant to grants or contracts made under subchapter I of this chapter for any fiscal year with respect to activities in any one State may not exceed 12 per centum of the total of the funds available for such grants or contracts under such subchapter for such fiscal year. (Pub. L. 90–445, title IV, § 403, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 536, and amended Pub. L. 93–415, title IV, § 403, Sept. 7, 1974, 88 Stat. 1133.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 3883, Pub. L. 90–445, title IV, § 403, July 31, 1968, 82 Stat. 471.

AMENDMENTS

1974—Pub. L. 93–415 struck out designation of former subsec. (a), and struck out subsec. (b) relating to reservation of amounts from grants for the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands, and amounts reserved for each state.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3884. Labor standards.

It shall be a condition of any grant under this chapter which is wholly or partially for construction that all laborers and mechanics employed by contractors or subcontractors on such construction shall be paid wages at rates not less than those prevailing

on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have with respect to these labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (Pub. L. 90–445, title IV, § 404, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 536.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

A prior section 3884, Pub. L. 90–445, title IV, § 404, July 31, 1968, 82 Stat. 472 related to the evaluation of programs. See section 3885 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3843, Pub. L. 90–445, title I, § 133, July 31, 1968, 82 Stat. 468.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3885. Evaluation.

(a) The Secretary shall provide for the continuing evaluation of the programs, projects, and other activities under this chapter, including their effectiveness in achieving stated goals and their relationship to and impact on related Federal, State, and local activities. This evaluation shall include comparisons with proper control groups composed of persons who have not participated in programs under this chapter. The results of such evaluations shall be included in the report required by section 3889 of this title.

(b) In addition to funds otherwise available for evaluation, such portion of any appropriation under section 3882 of this title as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the activities for which such appropriation is made. (Pub. L. 90–445, title IV, § 405, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 536.)

REFERENCES IN TEXT

Section 3889 of this title, referred to in subsec. (a), was repealed by Pub. L. 93–415, § 402(b).

CODIFICATION

A prior section 3885, Pub. L. 90–445, title IV, § 405, July 31, 1968, 82 Stat. 472 related to judicial review. See section 3886 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3884, Pub. L. 90–445, title IV, § 404, July 31, 1968, 82 Stat. 472.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3886. Judicial review.

In the case of action taken by the Secretary terminating or refusing to continue financial assistance pursuant to a grant or contract under this chapter to a grantee, such grantee may obtain judicial review of such action in accordance with chapter 7 of Title 5. (Pub. L. 92–381, title IV, § 406, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 537.)

CODIFICATION

A prior section 3886, Pub. L. 90–445, title IV, § 406, July 31, 1968, 82 Stat. 472 related to joint funding by several agencies. See section 3887 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3885, Pub. L. 90–445, title IV, § 405, July 31, 1968, 82 Stat. 472.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3887. Joint funding.

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to an agency assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. (Pub. L. 90–445, title IV, § 407, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 537.)

CODIFICATION

A prior section 3887, Pub. L. 90—445, title IV, § 407, July 31, 1968, 82 Stat. 472, as amended by Pub. L. 92–31, § 4, June 30, 1971, 85 Stat. 84, related to coordination of efforts of federal officers. See section 3888 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3886, Pub. L. 90–445, title IV, § 406, July 31, 1968, 82 Stat. 472.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget, see section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 3888. Coordination.

(a) In the administration of this chapter, the Secretary shall limit assistance under this chapter to programs and activities which are carried on outside of the juvenile justice system (which encompasses agencies such as the police, the courts, correctional institutions, detention homes, and probation and parole authorities).

(b) The Secretary shall consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under this chapter with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968. (Pub. L. 90–445, title IV, § 408, as added Pub. L. 92–381, § 1,

Aug. 14, 1972, 86 Stat. 537, and amended Pub. L. 93–415, title IV, § 402(a), Sept. 7, 1974, 88 Stat. 1133.)

CODIFICATION

A prior section 3888, Pub. L. 90–445, title IV, § 408, July 31, 1968, 82 Stat. 472 related to annual reports to Congress. See section 3889 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 3887, Pub. L. 90–445, title IV, § 407, July 31, 1968, 82 Stat. 472.

REFERENCES IN TEXT

The Omnibus Crime and Control and Safe Streets Act of 1968, referred to in subsec. (b), is Pub. L. 90–351, title I, June 19, 1968, 82 Stat. 197. For distribution of such Act in this Code, see Tables volume, and "Short Title" note under section 3701 of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–415 substituted provisions relating to consultation by the Secretary with the Attorney General for coordination of programs and activities funded under this chapter with those funded under the Omnibus Crime and Control and Safe Streets Act of 1968 for provisions relating to establishment, composition and procedure of the Interdepartmental Council on Juvenile Delinquency.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3889. Repealed. Pub. L. 93–415, title IV, § 402(b), Sept. 7, 1974, 88 Stat. 1133.

Section, Pub. L. 90–445, title IV, § 409, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 537, related to the preparation and submission of a report to the President by the Interdepartmental Council concerning all Federal activities in the field of juvenile delinquency.

§ 3890. General provisions.

(a) Nothing in this chapter shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this chapter be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which is otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this chapter other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom. (Pub. L. 90–445, title IV, § 410, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 538.)

CODIFICATION

A prior section 3890, Pub. L. 90–445, title IV, § 410, July 31, 1968, 82 Stat. 473, related to definitions. See section 3891 of this title.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

§ 3891. Definitions.

For purposes of this chapter—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term "public agency" means a duly elected political body or a subdivision thereof and shall not be construed to include the Office of Economic Opportunity. Such term includes an Indian tribe.

(3) The term "nonprofit private agency" means any accredited institution of higher education, and any other agency, organization, or institution no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, or which is owned and operated by one or more such agencies, but only if such agency, organization, or institution was in existence at least two years before the date of an application under this chapter. Such term shall not be construed to include the Office of Economic Opportunity. Participation by the Office of Economic Opportunity is expressly prohibited in administering this chapter.

(5)[1] The term "Secretary" means the Secretary of Health, Education, and Welfare.

(6) The term "construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for new buildings). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them.

(7) The term "youth services" means services which assist in the prevention of juvenile delinquency, including, but not limited to: individual and group counseling, family counseling, diagnostic services, remedial education, tutoring, alternate schools (institutions which provide education to youths outside the regular or traditional school system), vocational testing and training, job development and placement, emergency shelters, halfway houses, health services, drug abuse programs, social, cultural, and recreational activities, the development of paraprofessional or volunteer programs, community awareness programs, foster care and shelter care homes, and community-based treatment facilities or services.

(8) The term "coordinated youth services" means a comprehensive service delivery system, separate from the system of juvenile justice (which encompasses agencies such as the juvenile courts, law enforcement agencies, and detention facilities) for providing youth services to an individual who is in danger of becoming delinquent and to his family in a manner designed to—

(a) facilitate accessibility to and utilization of all appropriate youth services provided within the geographic area served by such system by any public or private agency or organization, which desires to provide such services through such system;

(b) identify the need for youth services not currently provided in the geographic area covered by such system, and, where appropriate, provide such services through such system;

(c) make the most effective use of youth services in meeting the needs of young people who are in danger of becoming delinquent, and their families;

[1] So in original. Section enacted without a par. (4).

(d) use available resources efficiently and with a minimum of duplication in order to achieve the purposes of this chapter; and

(e) identify the types and profiles of individual youths who are to be served by such a comprehensive system.

(9) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. (Pub. L. 90–455, title IV, § 411, as added Pub. L. 92–381, § 1, Aug. 14, 1972, 86 Stat. 538.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 3890, Pub. L. 90–445, title IV, § 410, July 31, 1968, 82 Stat. 473.

EFFECTIVE DATE

Section effective July 1, 1972, see section 3 of Pub. L. 92–381, set out as a note under section 3801 of this title.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

Chapter 48.—GUARANTEES FOR FINANCING NEW COMMUNITY LAND DEVELOPMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 5302, 5307 of this title.

Chapter 49.—NATIONAL HOUSING PARTNERSHIPS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 sections 24, 1464.

§ 3937. National housing partnership.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 24, 1464.

§ 3941. State or local taxation or regulation; access to judicial process.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

Chapter 50.—NATIONAL FLOOD INSURANCE

Sec.

4002. Additional Congressional findings and declaration of purpose [New].
4003. Additional definitions [New].

SUBCHAPTER I.—THE NATIONAL FLOOD INSURANCE PROGRAM

4012a. Requirement of flood insurance for Federal approval of financial assistance [New].
(a) Amount and term of coverage.
(b) Federal regulations for flood insurance requirement; amount of coverage.
(c) State-owned property; exemption; list of States.

SUBCHAPTER III.—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

4104. Flood elevation determinations [New].
(a) Publication or notification of proposed flood elevation determinations.
(b) Publication of flood elevation determinations; appeal of owner or lessee to local government scientific or technical knowledge or information as basis for appeal; modification of proposed determinations.
(c) Appeals by private persons; submission of negativing or contradicting data to community; opinion of community respecting justification for appeal by community; transmission of individual appeals to Secretary; filing of community action with Secretary.
(d) Administrative review of appeals by private persons; modification of proposed determinations; decision of Secretary: form and distribution.
(e) Administrative review of appeals by community; agencies for resolution of conflicting data; availability of flood insurance pending such resolution; time for determination of Secretary; community adoption of local land use and control measures within reasonable time of final determination; public inspection and admissibility in evidence of reports and other administrative information.
(f) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations.
4104a. Notification of purchaser or lessee of special flood hazards in area of location of improved real estate or mobile home securing loan; regulations prescribing procedures [New].
4105. Disaster mitigation requirements; notification to flood-prone areas [New].
(a) Initial notification.
(b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area.
(c) Subsequent notification to additional communities known to be flood-prone areas.
(d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program.
4106. Same; nonparticipation in flood insurance program [New].
(a) Prohibition against Federal approval of financial assistance.
(b) Federal regulations against loans by financial institutions.
4107. Same; consultation with local officials; scope [New].

SUBCHAPTER IV.—GENERAL PROVISIONS

4128. Rules and regulations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4104a of this title.

§ 4001. Congressional findings and declaration of purpose.

* * * * *

(g) The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities

for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels. (As amended Pub. L. 93–234, title I, § 108(a), Dec. 31, 1973, 87 Stat. 979.)

AMENDMENTS

1973—Subsec. (g). Pub. L. 93–234 added subsec. (g).

§ 4002. Additional Congressional findings and declaration of purpose.

(a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plan ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

(Pub. L. 93–234, § 2, Dec. 31, 1973, 87 Stat. 975.)

REFERENCES IN TEXT

For classification of "this Act", referred to in subsec. (b), meaning Pub. L. 93–234, the Flood Disaster Protection Act of 1973, see Short Title note set out under this section.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

SHORT TITLE

Section 1 of Pub. L. 93–234 provided: "That this Act [which enacted sections 4002, 4003, 4012a, 4104–4107, and 4128 of this title, amended sections 4001, 4013(b)(1)(A)–(C), 4014, 4015(c), 4016(a), 4026, 4054, 4056(a), 4101, and 4121 of this title and sections 24 and 1709–1 of Title 12, and repealed section 4021 of this title] may be cited as the 'Flood Disaster Protection Act of 1973'."

§ 4003. Additional definitions.

(a) As used in this Act, unless the context otherwise requires, the term—

(1) "community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States;

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970;

(5) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the

Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(6) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act. (Pub. L. 93–234, § 3, Dec. 31, 1973, 87 Stat. 976.)

REFERENCES IN TEXT

For classification of "this Act", referred to in subsecs. (a) and (b), meaning Pub. L. 93–234, the Flood Disaster Protection Act of 1973, see Short Title note set out under section 4002 of this title.

The Disaster Relief Act of 1970, referred to in subsec. (a)(4), was repealed by Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164, title I of which enacted the Disaster Relief Act of 1974, section 5121 et seq. of this title. A reference in any provision of law to the Disaster Relief Act of 1970 to be deemed a reference to the appropriate provision of the Disaster Relief Act of 1974, see section 602(m) of the Disaster Relief Act of 1974, set out as a note under former section 4401 of this title.

CODIFICATION

Section was enacted as part of Flood Disaster Protection 1973, and not as part of National Flood Insurance Act of 1968, which is to this chapter.

SUBCHAPTER I.—THE NATIONAL FLOOD INSURANCE PROGRAM

§ 4012. Scope of program and priorities.

(a) Priority for insurance for certain residential and church properties and business concerns.

In carrying out the flood insurance program the Secretary shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

* * * * *

(As amended Pub. L. 92–213, § 2(c)(1), Dec. 22, 1971, 85 Stat. 775.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–213 added reference to church properties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4014, 4015 of this title.

§ 4012a. Requirement of flood insurance for Federal approval of financial assistance.

(a) Amount and term of coverage.

After the expiration of sixty days following December 31, 1973, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance has been made available under this chapter, unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under this chapter, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) Federal regulations for flood insurance requirement; amount of coverage.

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which flood insurance has been made available under this chapter, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the chapter, whichever is less.

(c) State-owned property; exemption; list of States.

Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Secretary. The Secretary shall publish and periodically revise the lost of States to which this subsection applies. (Pub. L. 93–234, title I, § 102, Dec. 31, 1973, 87 Stat. 978.)

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

§ 4013. Nature and limitation of insurance coverage; regulations.

* * * * *

(b) In addition to any other terms and conditions under subsection (a) of this section, such regulations shall provide that—

(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—

(A) in the case of residential properties—

(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit,

(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit, and

(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam; the limits provided in clause (i) of this sentence shall be: $50,000 aggregate liability for any single-family dwelling, and $150,000 for any residential structure containing more than one dwelling unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that term is defined by the Secretary), which shall be equal to (i) $100,000 plus (ii) $100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Secretary; except that the aggregate liability for the structure itself may in no case exceed $100,000; and

(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 4012 of this title—

(i) $100,000 aggregate liability for any single structure, and

(ii) $100,000 aggregate liability per unit for any contents related to such unit; and

* * * * * *

(As amended Pub. L. 92–213, § 2(c)(2), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, § 101, Dec. 31, 1973, 87 Stat. 977.)

AMENDMENTS

1973—Subsec. (b)(1)(A). Pub. L. 93–234, § 101(a), in increasing limits of coverage, deleted following introductory text "residential properties" the clause "which are designed for the occupancy of from one to four families"; substituted provisions in cl. (i) "$35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit" for "$17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit"; increased cl. (ii) limits to $10,000 from $5,000 and added cl. (iii).

Subsec. (b)(1)(B). Pub. L. 93–234, § 101(b), substituted "$100,000" for "$30,000" in cl. (i), for "$5,000" in cl. (ii), and for "$30,000" in exception provision.

Subsec. (b)(1)(C). Pub. L. 93–234, § 101(c), increased cl. (i) limits to $100,000 from $30,000 and substituted cl. (ii) "$100,000 aggregate liability per unit for any contents related to such unit" for "$5,000 aggregate liability per dwelling unit for any contents related to such unit in the case of residential properties, or per occupant (as that term is defined by the Secretary) for any contents related to the premises occupied in the case of any other properties."

1971—Subsec. (b)(1)(C). Pub. L. 92–213 inserted "church properties, and" preceding "any other properties which may become".

§ 4014. Estimates of premium rates.

* * * * * *

(d) Parishes of Louisiana; premium rates.

Notwithstanding any other provision of law, any structure existing on December 31, 1973, and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates that shall not exceed those which would be applicable if such additional hazards did not exist.

(e) Eligibility of community making adequate progress on construction of flood protection system for rates not exceeding those applicable to completed flood protection system; determination of adequate progress.

Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Secretary, on the construction of a flood protection system which will afford flood protection for the one-hundred year frequency flood as determined by the Secretary, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Secretary shall find that adequate progress on the construction of a flood protection system as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed. (As amended Pub. L. 93–234, title I, § 109 Dec. 31, 1973, 87 Stat. 980; Pub. L. 93–383, title VIII, § 816(b), Aug. 22, 1974, 88 Stat. 739.)

AMENDMENTS

1974—Subsec. (e). Pub. L. 93–383 added subsec. (e).
1973—Subsec. (d). Pub. L. 93–234 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4013, 4015, 4054, 4056 of this title.

§ 4015. Chargeable premium rates.

* * * * * *

(c) Rate with respect to property the construction or substantial improvement of which has been started after December 31, 1974, or effective date of initial rate map published for area in which property is located, whichever is later.

Notwithstanding any other provision of this chapter, the chargeable rate with respect to any property, the construction or substantial improvements of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title.

* * * * * *

(As amended Pub. L. 93–234, title I, § 103, Dec. 31, 1973, 87 Stat. 978.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93–234 substituted "started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later" for "started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4017, 4020, 4054 of this title.

§ 4016. Financing provisions; issuance of notes or other obligations; limitation; report to Congressional Committees; deposits in Fund.

(a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Secretary for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Secretary pursuant to such authority (1) without the approval of the President, may not exceed $500,000,000, and (2) with the approval of the President, may not exceed $1,000,000,000. The Secretary shall report to the Committee on Banking and Currency of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

* * * * *

(As amended Pub. L. 93–234, title I, § 104, Dec. 31, 1973, 87 Stat. 979.)

REFERENCES IN TEXT

Section 1303 of this Act, referred to in subsec. (a), means section 1303 of Pub L. 90–448, which amended section 2414(e) of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–234 substituted provisions respecting issuance of notes and obligation for $500,000,000 without approval of President and for $1,000,000,000 with approval of President, for former provision prescribing a $250,000,000 limitation, deleted provision rescinding authority of Secretary to issue notes and obligations under section 2414(e) of this title, and provided for report to Congressional Committees when the approval of the President is requested.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

§ 4021. Repealed. Pub. L. 93–23, title II, § 203, Dec. 31, 1973, 87 Stat. 982.

Section, Pub. L. 90–448, title XIII, § 1314, Aug. 1, 1968, 82 Stat. 579 denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined "Federal disaster assistance" and "financial assistance".

LOSS, DESTRUCTION, OR DAMAGE OCCURRING ON OR BEFORE DECEMBER 31, 1973

Pub. L. 92–213, § 2(b), Dec. 22, 1971, 85 Stat. 775, provided that: "The provisions of section 1314(a)(2) of such Act [subsec. (a)(2) of this section] shall not apply with respect to any loss, destruction, or damage of real or personal property that occurs on or before December 31, 1973."

§ 4026. Expiration of program.

No new contract for flood insurance under this chapter shall be entered into after June 30, 1977. (As amended Pub. L. 93–4, Feb. 2, 1973, 87 Stat. 4, Pub. L. 93–38, June 5, 1973, 87 Stat. 73; Pub. L. 93–234, title I, § 105, Dec. 31, 1973, 87 Stat. 979.)

AMENDMENTS

1973—Pub. L. 93–234 substituted expiration of program provisions for $6,000,000,000 limitation on flood insurance coverage outstanding.

Pub. L. 93–38 increased limitation on face amount of outstanding flood insurance coverage from $4,000,000,000 to $6,000,000,000.

Pub. L. 93–4 increased limitation on face amount of outstanding flood insurance coverage from $2,500,000,000 to $4,000,000,000.

SUBCHAPTER II.—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

§ 4054. Premium equalization payments; basis; aggregate amount; establishment of designated periods.

* * * * *

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Secretary. (As amended Pub. L. 93–234, title I, § 111, Dec. 31, 1973, 87 Stat. 981.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–234 redesignated former subsec. (c) as (b), and struck out former subsec. (b) prescribing formula for sharing losses between Government and industry and permit necessary flexibility in loss sharing to take into account longer-term loss experience trends and to compensate for lack of precision in actuarial computations.

Subsec. (c). Pub. L. 93–234 redesignated former subsec. (c) as (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4052, 4056, 4127 of this title.

§ 4056. Emergency implementation of flood insurance program; applicability of other provisions of law.

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Secretary shall carry out the flood insurance program authorized under subchapter I of this chapter during the period ending December 31, 1976, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b) of this section.

* * * * *

(As amended Pub. L. 92–213, § 2(a), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, § 106, Dec. 31, 1973, 87 Stat. 979; Pub. L. 94–173, § 5, Dec. 23, 1975, 89 Stat. 1028.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–173 substituted "December 31, 1976" for "December 31, 1975".

1973—Subsec. (a). Pub. L. 93–234 substituted "December 31, 1975" for "December 31, 1973".

1971—Subsec. (a). Pub. L. 92–213 substituted "December 31, 1973" for "December 31, 1971".

SUBCHAPTER III.—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

§ 4101. Identification of flood-prone areas.

(a) Publication of information; establishment of flood-risk zones; estimates of flood-caused loss.

The Secretary is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which has special floor hazards, within five years following August 1, 1968, and

(2) establish flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas, within fifteen years following such date.

(b) Accelerated identification of flood-risk zones; authority of Secretary: grants, technical assistance, transactions, and payments.

The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Secretary is authorized, without regard to section 529 of Title 31 and section 5 of Title 41, to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

(c) Priority in allocation of manpower and other available resources for identification and mapping of flood hazard areas and flood-risk zones.

The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this section. (As amended Pub. L. 93–234, title II, § 204, Dec. 31, 1973, 87 Stat. 983.)

AMENDMENTS

1973—Pub. L. 93–234 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4015, 4105 of this title.

§ 4102. Criteria for land management and use.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4104 of this title.

§ 4104. Flood elevation determinations.

(a) Publication or notification of proposed flood elevation determinations.

In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 4102 of this title, the Secretary shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

(b) Publication of flood elevation determinations; appeal of owner or lessee to local government; scientific or technical knowledge or information as basis for appeal; modification of proposed determinations.

The Secretary shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Secretary's proposed determination may appeal such determination to the local government. The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevations being proposed by the Secretary with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) of this section is a modification of the Secretary's proposed determination accordingly.

(c) Appeals by private persons; submission of negativing or contradicting data to community; opinion of community respecting justification for appeal by community; transmission of individual appeals to Secretary; filing of community action with Secretary.

Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the Secretary's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Secretary's determination, copies of individual appeals shall be sent to the Secretary as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Secretary not later than ninety days after the date of the second newspaper publication of the Secretary's notification.

(d) Administrative review of appeals by private persons; modification of proposed determinations; decision of Secretary: form and distribution.

In the event the Secretary does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e) of this section, the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Secretary's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

(e) Administrative review of appeals by community; agencies for resolution of conflicting data; availability of flood insurance pending such resolution; time for determination of Secretary; community adoption of local land use and control measures within reasonable time of final determination; public inspection and admissibility in evidence of reports and other administrative information.

Upon appeal by any community, as provided by this section, the Secretary shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Secretary shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Until the conflict in data is resolved, and the Secretary makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Secretary shall make his determination within a reasonable time. The community shall be given a reasonable time after the Secretary's final determination in which to adopt local land use and control measures consistent with the Secretary's determination. The reports and other information used by the Secretary in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

(f) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations.

Any appellant aggrieved by any final determination of the Secretary upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of Title 5. During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this chapter unless stayed by the court for good cause shown. (Pub. L. 90–448, title XIII, § 1363, as added Pub. L. 93–234, title I, § 110, Dec. 31, 1973, 87 Stat. 980.)

§ 4104a. Notification of purchaser or lessee of special flood hazards in area of location of improved real estate or mobile home securing loan; regulations prescribing procedures.

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation require such institutions, as a condition of making, increasing, extending, or renewing (after the expiration of thirty days following August 22, 1974) any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary under this chapter or Public Law 93–234 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. (Pub. L. 90–448, title XIII, § 1364, as added Pub. L. 93–383, title VIII, § 816(a), Aug. 22, 1974, 88 Stat. 739.)

REFERENCES IN TEXT

Pub. L. 93–234, referred to in text, is the Flood Disaster Protection Act of 1973. For distributon of such Act in this Code, see Short Title note set out under section 4002 of this title.

§ 4105. Disaster mitigation requirements; notification to flood-prone areas.

(a) Initial notification.

Not later than six months following December 31, 1973, the Secretary shall publish information in accordance with section 4101(1) of this title, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area.

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Secretary decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be

deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) Subsequent notification to additional communities known to be flood-prone areas.

As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program.

Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 4106 of this title, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program. (Pub. L. 93–234, title II, § 201, Dec. 31, 1973, 87 Stat. 982.)

REFERENCES IN TEXT

For classification of "this Act", referred to in subsec. (b), meaning Pub. L. 93–234, the Flood Disaster Protection Act of 1973, see Short Title note set out under section 4002 of this title.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

§ 4106. Same; nonparticipation in flood insurance program.

(a) Prohibition of Federal approval of financial assistance.

No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Federal regulations against loans by financial institutions.

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the national flood insurance program, except that the prohibition contained in this sentence shall not apply to any loan made prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling (Pub. L. 93–234, title II, § 202, Dec. 31, 1973, 87 Stat. 982, amended Pub. L. 94–50, title III, § 303, July 2, 1975, 89 Stat. 256; Pub. L. 94–198, Dec. 31, 1975, 89 Stat. 1116.)

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–198 substituted "March 1, 1976" for "January 1, 1976".

Pub. L. 94–50 added provision excepting from the prohibition of this section any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title.

§ 4107. Same; consultation with local officials; scope.

In carrying out his responsibilities under the provisions of this title and this chapter which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Secretary shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Secretary concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Secretary shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study. (Pub. L. 93–234, title II, § 206, Dec. 31, 1973, 87 Stat. 983.)

REFERENCES IN TEXT

"Provisions of this title", referred to in the text, mean provisions of title II of Pub. L. 93–234, which are classified to sections 4105–4107 and 4128 of this title, amended sections 24 and 1709–1 of Title 12, and repealed section 4021 of this title.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 4121. Definitions.

* * * * *

(b) The term "flood" shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mudslides in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this

chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program.

(c) The term "flood" shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this chapter shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this chapter and the objectives of the program. (As amended Pub. L. 93–234, title I, §§ 107, 108(b), Dec. 31, 1973, 87 Stat. 979, 980.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–234, § 107, inserted "proximately" before "caused".

Subsec. (c). Pub. L. 93–234, § 108(b), added subsec. (c).

§ 4128. Rules and regulations.

(a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act. (Pub. L. 93–234, title II, § 205, Dec. 31, 1973, 87 Stat. 983.)

REFERENCES IN TEXT

For classification of "this Act", referred to in subsecs. (a) and (b), meaning Pub. L. 93–234, the Flood Disaster Protection Act of 1973, see Short Title note set out under section 4002 of this title.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which is classified to this chapter.

Chapter 51.—DESIGN AND CONSTRUCTION OF PUBLIC BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3041a, 6042, 6063 of this title; title 20 section 1406; title 29 sections 776, 792.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 1–1442a of the District of Columbia Code.

Chapter 52.—INTERGOVERNMENTAL COOPERATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3232 of this title; title 40 section 461.

SUBCHAPTER II.—GRANTS-IN-AID TO THE STATES; IMPROVED ADMINISTRATION

§ 4214. Eligible State agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 982.

SUBCHAPTER III.—SPECIAL OR TECHNICAL SERVICES PROVIDED FOR STATE AND LOCAL UNITS OF GOVERNMENT BY FEDERAL DEPARTMENTS AND AGENCIES

§ 4222. Authority to provide service.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SUBCHAPTER IV.—DEVELOPMENT ASSISTANCE PROGRAMS; COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

Sections 4231 to 4233, which comprise subchapter IV of this chapter, are referred to in sections 3151a, 5304 of this title; title 16 section 1456.

§ 4231. Declaration of development assistance policy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*–2 of this title; title 40 section 461.

§ 4233. Rules and regulations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*–2 of this title.

Chapter 52A.—JOINT FUNDING SIMPLIFICATION [NEW]

Sec.

4251. Statement of purposes.
4252. Implementation of joint funding provisions by Federal officials.
(a) Promulgation by President of regulations governing administrative procedures.
(b) Authorized activities of heads of Federal agencies pursuant to internal agency orders or interagency agreements.
(c) Responsibilities of head of Federal agencies with respect to Federal assistance programs administered by agencies.

Sec.
4253. Activities by heads of Federal agencies relating to application processing or assistance requests under two or more Federal programs supporting any projects; criteria.
4254. Special authorities of heads of Federal agencies with respect to projects assisted under more than one Federal assistance program; exercise pursuant to regulations prescribed by President.
4255. Establishment by heads of Federal agencies of uniform technical and administrative provisions.
(a) Requirements for projects.
(b) Review of project proposals.
(c) Waiver of single or specific public agency requirements for administering Federal assistance drawn upon by jointly funded project.
4256. Delegation by Federal agency heads of powers and functions relating to supervision, etc., of Federal assistance; approval by President; conditions.
4257. Joint management fund for financing of projects.
(a) Establishment for funds drawn from more than one Federal program or appropriation; transfer to fund of proportionate amounts from program or appropriation for payment to grantee; return to fund of unexpended amounts.
(b) Agreements by concerned Federal agencies relating to fund accounts; required provisions.
(c) Recordkeeping requirements for recipients of moneys drawn from fund; prescription by Federal agency head responsible for administering fund.
(d) Audit and examination of books, etc., of recipient by Federal agency head responsible for administering fund and Comptroller General.
(e) Establishment of single non-Federal share.
4258. Availability of appropriations for joint funding of programs.
4259. Agreements between Federal agencies and States extending joint funding provisions to assisted projects; regulations by President.
4260. Report by President to Congress; contents.
4261. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3020a of this title.

§ 4251. Statement of purposes.

The purpose of this chapter is to enable State and local governments and private, nonprofit organizations to use Federal assistance more effectively and efficiently, and to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this chapter to encourage Federal-State arrangements under which local governments and private, nonprofit organizations may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments and organizations concerned. (Pub. L. 93–510, § 2, Dec. 5, 1974, 88 Stat. 1604.)

EFFECTIVE AND EXPIRATION DATES

Section 13 of Pub. L. 93–510 provided that: "This Act [enacting this chapter and note set out under this section] shall become effective sixty days following the date of enactment [Dec. 5, 1974], and shall expire five years following the date upon which it becomes effective; except that the expiration of this Act shall not affect the status of any project approved prior to the date of such expiration."

SHORT TITLE

Section 1 of Pub. L. 93–510 provided: "That this Act [enacting this chapter and note set out under this section] may be cited as the 'Joint Funding Simplification Act of 1974'."

§ 4252. Implementation of joint funding provisions by Federal officials.

(a) Promulgation by President of regulations governing administrative procedures.

The President shall promulgate such regulations as may be necessary or appropriate to assure that this chapter is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects funded pursuant to the provisions of this chapter make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, and (2) to resolve questions of common interest to those agencies prior to submission of any application.

(b) Authorized activities of heads of Federal agencies pursuant to internal agency orders or interagency agreements.

Subject to such regulations as the President may prescribe, and to other applicable law, the heads of Federal agencies, by internal agency order or interagency agreement, may take the following actions:

(1) Identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects thereunder.

(2) Development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs.

(3) Review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects thereunder and the extent to which such requirements may be modified, making such modifications where appropriate.

(4) Establishment of common technical or administrative rules with respect to related programs to assist in the joint use of funds in the support of specific projects or classes of projects under such programs.

(5) Creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing applications on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(c) Responsibilities of heads of Federal agencies with respect to Federal assistance programs administered by agencies.

The head of each Federal agency shall be responsible for taking actions, to the maximum extent permitted under applicable law, that will further the purpose of this chapter with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies

in order similarly to promote the purposes of this chapter with respect to Federal assistance programs of different agencies that may be used jointly in support of projects undertaken by State or local governments, or private, nonprofit organizations. (Pub. L. 93–510, § 3, Dec. 5, 1974, 88 Stat. 1604.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

EX. ORD. NO. 11867. DELEGATION TO ADMINISTRATOR OF GENERAL SERVICES OF AUTHORITY TO ISSUE REGULATIONS

Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, provided:

By virtue of the authority vested in me by Sections 3, 5, 7, 10, and 11 of the Joint Funding Simplification Act of 1974 (Public Law 93–510, 88 Stat. 1604), [this section and sections 4254, 4256, 4259, and 4260 of this title], Section 408 of the Domestic Volunteer Service Act of 1973 (87 Stat. 410, 42 U.S.C. 5048), Section 5 of the Rehabilitation Act of 1973 (87 Stat. 359, 29 U.S.C. 704), Section 701 (1) of the Housing Act of 1954, as amended (40 U.S.C. 461 (1)), Section 728 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4531), Section 406 of the Juvenile Delinquency Prevention and Control Act of 1968, as amended (now Section 407, 86 Stat. 537, 42 U.S.C. 3887), Section 612 of the Economic Opportunity Act of 1964, as amended (81 Stat. 717, 42 U.S.C. 2962), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Administrator of General Services is designated and empowered to exercise, without approval, ratification, or other action by the President, the function vested in the President by Sections 3, 5, 7, and 10 of the Joint Funding Simplification Act of 1974 (Public Law 93–510, 42 U.S.C. 4252, 4254, 4256 and 4259, respectively). The Administrator shall promulgate such regulations as may be necessary or appropriate to assure that that Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes.

SEC. 2. The Administrator of General Services shall prepare, for the President's transmission to Congress, the report required by Section 1 of the Joint Funding Simplification Act of 1974 [section 4260 of this title], which report shall be submitted to the President through the Director of the Office of Management and Budget, at least fourteen months prior to the expiration of that Act [this chapter].

SEC. 3. The Administrator of General Services is designated and empowered to exercise, without approval, ratification, or other action by the President, the authority vested in the President to issue regulations with respect to joint funding by:

(a) Section 408 of the Domestic Volunteer Service Act of 1973 (87 Stat. 410, 42 U.S.C. 5048).

(b) Section 5 of the Rehabilitation Act of 1973 (87 Stat. 359, 29 U.S.C. 704),

(c) Section 406 of the Juvenile Delinquency Prevention and Control Act of 1968, as amended (now Section 407, 86 Stat. 537, 42 U.S.C. 3887),

(d) Section 612 of the Economic Opportunity Act of 1964, as amended (81 Stat. 717, 42 U.S.C. 2962),

(e) Section 701(1) of the Housing Act of 1954, as amended (40 U.S.C. 461(1)), and

(f) Section 728 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4531).

SEC. 4. The functions delegated to the Administrator of General Services by this Order shall be performed:

(a) subject to the general oversight and policy direction of the Director of the Office of Management and Budget;

(b) with respect to joint management funds, subject to the existing authority of the Director of the Office of Management and Budget; and

(c) in accordance with the provisions of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577, 82 Stat. 1098) [section 531 et seq. of Title 40, Public Buildings, Property, and Works, and section 4201 et seq. of this title].

SEC. 5. The delegations of authority provided by Section 3 of this Order, and the supersessions provided by this Section, shall not be deemed to affect in any way the exercise of such authority previously delegated to the Administrator of General Services. The following Executive orders are superseded: Executive Order No. 11784 of May 30, 1974, and Executive Order No. 11466 of April 18, 1969.

SEC. 6. Section 1 of Executive Order No. 11758 of January 15, 1974 [set out as a note under section 701 of Title 29, Labor], is revised to read as follows:

"The Director of the Office of Management and Budget is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President under section 500(a) of the Rehabilitation Act of 1973 (87 Stat. 390, 29 U.S.C. 790) with respect to the transfer of unexpended appropriations."

GERALD R. FORD.

SUPERSEDURE

Ex. Ord. No. 11867 superseded to the extent that it is inconsistent with Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, see section 4 of Ex. Ord. No. 11893, set out as a note under this section.

EX. ORD. NO. 11893. TRANSFERRING CERTAIN FUNCTIONS FROM GENERAL SERVICES ADMINISTRATION TO OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, provided:

By virtue of the authority vested in me as President by the Constitution and Statutes of the United States, particularly by section 301 of title 3 of the United States Code, the Federal Property and Administrative Services Act of 1949, as amended, the Budget and Accounting Act, 1921, as amended, the Budget and Accounting Procedures Act of 1950, as amended, Reorganization Plan No. 2 of 1970 [set out in the Appendix to Title 5, Government Organization and Employees]; and section 5317 of title 5 of the United States Code, it is hereby ordered as follows:

SECTION 1. There are hereby transferred to the Director of the Office Management and Budget all policy functions that were transferred to the Administrator of General Services by Section 1 (1) of Executive Order No. 11717, dated May 9, 1973 [set out as a note under section 16 of Title 31, Money and Finance], and Executive Order No. 11867, dated June 19, 1975 [set out as a note under this section].

SEC. 2. The Director of the Office of Management and Budget shall continue to perform policy formulation and general oversight functions with regard to the other transfers made by Executive Order No. 11717 and Executive Order No. 11867. No function vested by statute in the Administrator shall be deemed to be affected by the provisions of this order.

SEC. 3. So much of the personnel, property and records attendant to the functions transferred by this order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Office of Management and Budget, at such times as the Director shall specify.

SEC. 4. Executive Order No. 11717 of May 9, 1973, and Executive Order No. 11867 of June 19, 1975, are hereby superseded to the extent that they are inconsistent with this order. Any circulars, directives, or regulations issued pursuant to functions transferred by this order shall remain in effect until modified or rescinded by the Office of Management and Budget.

SEC. 5. Section 2 of Executive Order No. 11861 of May 21, 1975, as amended [set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level V of the Executive Schedule, is further amended by deleting "(9) Associate Administrator for Federal Management Policy, General Services Administration.".

SEC. 6. This order shall be effective as o. December 31, 1975.

GERALD R. FORD

§ 4253. Activities by heads of Federal agencies relating to application processing or assistance requests under two or more Federal programs supporting any project; criteria.

Actions taken by Federal agency heads pursuant to this chapter that relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to an application and of any special problems or impediments that may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or action of another Federal agency that could more appropriately be secured through direct communication among the Federal agencies involved. (Pub. L. 93–510, § 4, Dec. 5, 1974, 88 Stat. 1605.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

§ 4254. Special authorities of heads of Federal agencies with respect to projects assisted under more than one Federal assistance program; exercise pursuant to regulations prescribed by President.

Where appropriate to further the purposes of this chapter, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 4255, 4256, and 4257 of this title (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this chapter or other applicable law, that they are applied only as necessary to promote expeditious processing of applications or effective and efficient administration of projects, and that they are applied in a manner consistent with the protection of the Federal interest and with program purposes and statutory requirements. (Pub. L. 93–510, § 5, Dec. 5, 1974, 88 Stat. 1605.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

§ 4255. Establishment by heads of Federal agencies of uniform technical and administrative provisions.

(a) Requirements for projects.

In order to provide for projects that would otherwise be subject to varying or conflicting technical or administrative rules and procedures not required by law, the heads of Federal agencies may adopt uniform provisions with respect to—

(1) inconsistent or conflicting requirements relating to financial administration of such projects, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 4257 of this title;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments for such projects where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant; and

(4) inconsistent of conflicting requirements relating to accountability for, or the disposition of, records, property, or structures acquired or constructed with Federal assistance where common rules are established for the project as a whole.

(b) Review of project proposals.

In order to permit processing of applications in accordance with the purposes of this chapter, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees except when such review is specifically required by law.

(c) Waiver of single or specific public agency requirement for administering Federal assistance drawn upon by jointly funded project.

In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies that he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned. (Pub. L. 93–510, § 6, Dec. 5, 1974, 88 Stat. 1606.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to the expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4254 of this title.

§ 4256. Delegation by Federal agency heads of powers and functions relating to supervision, etc., of Federal assistance; approval by President; conditions.

With the approval of the President, agency heads may delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects funded under the terms of this chapter. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies, and shall not relieve agency heads of responsibility for the proper and efficient management of projects funded by their agencies. (Pub. L. 93–510, § 7, Dec. 5, 1974, 88 Stat. 1606.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4254 of this title.

§ 4257. Joint management fund for financing of projects.

(a) Establishment for funds drawn from more than one Federal program or appropriation; transfer to fund of proportionate amounts from program or appropriation for payment to grantee; return to fund of unexpended amounts.

In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this chapter, there may be established joint management funds with respect to such projects. There shall be transferred to the joint management fund from each affected program or appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any unexpended amounts shall be returned to the joint management fund by the grantee at the completion of the project.

(b) Agreements by concerned Federal agencies relating to fund accounts; required provisions.

Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable by program and appropriation for the amounts provided for the purposes of each account established in the fund; and shall include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, and for returning that excess to the participating Federal agencies according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) Recordkeeping requirements for recipients of moneys drawn from fund; prescription by Federal agency head responsible for administering fund.

For each project financed through an account in a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received under each program and appropriation, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) Audit and examination of books, etc., of recipient by Federal agency head responsible for administering fund and Comptroller General.

The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(e) Establishment of single non-Federal share.

In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of these programs. (Pub. L. 93–510, § 8, Dec. 5, 1974, 88 Stat. 1606.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4254, 4255 of this title.

§ 4258. Availability of appropriations for joint funding of programs.

Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint funding involving that program and any other Federal assistance program. (Pub. L. 93–510, § 9, Dec. 5, 1974, 88 Stat. 1607.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

§ 4259. Agreements between Federal agencies and States extending joint funding provisions to assisted projects; regulations by President.

Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States as appropriate to extend the benefits of this chapter to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis. (Pub. L. 93–510, § 10, Dec. 5, 1974, 88 Stat. 1607.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

§ 4260. Report by President to Congress; contents.

At least one year prior to the expiration of this chapter, the President shall submit a comprehensive report to the Congress on actions taken under this chapter, and make recommendations for its continuation, modification, or termination. The report shall provide a detailed evaluation of the functioning of this chapter, including information regarding the benefits and costs of jointly funded projects accruing to the participating State and local governments and private, nonprofit organizations, and to the Federal Government. (Pub. L. 93–510, § 11, Dec. 5, 1974, 88 Stat. 1608.)

REFERENCES IN TEXT

For expiration date of this chapter, referred to in text, see Effective and Expiration Dates note set out hereunder.

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

§ 4261. Definitions.

As used in this chapter—

(1) the term "Federal assistance programs" means programs that provide assistance through grant or contractual arrangements, but does not include assistance in the form of revenue sharing, loans, loan guarantees, or insurance;

(2) the term "applicant" means any State or local government or private, nonprofit organization acting separately or together in seeking assistance with respect to a single project;

(3) the term "project" means any undertaking, whether of a temporary or continuing nature that includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) the term "Federal agency" means any agency, department, corporation, independent establishment, or other entity of the executive branch of the Government of the United States;

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, and any tribe as defined in section 1452 (c) of Title 25);

(6) the term "local government" means a local unit of government including a city, county, parish, town, township, village, school district, council of governments, or other agency or instrumentality of a local unit of government.

(Pub. L. 93–510, § 12, Dec. 5, 1974, 88 Stat. 1608.)

EFFECTIVE AND EXPIRATION DATES

Section effective sixty days following Dec. 5, 1974, and expiring five years following such effective date, except that expiration shall not affect the status of any project approved prior to expiration date, see section 13 of Pub. L. 93–510, set out as a note under section 4251 of this title.

Chapter 53.—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

§ 4271. Establishment.

EXECUTIVE ORDER NO. 11455

Ex. Ord. No. 11455, Feb. 14, 1969, 34 F.R. 2299, set out as a note under this section, which established the Office of Intergovernmental Relations, was revoked by Ex. Ord. No. 11690, Dec. 14, 1972, 37 F.R. 26815, set out as a note under section 301 of Title 3, The President.

§ 4275. Duties of the Commission.

STUDY AND REPORT TO CONGRESS OF EFFECT ON FUNDS AVAILABLE FOR HOUSING AND STATE AND LOCAL BOND MARKETS OF FULL DEPOSIT INSURANCE FOR PUBLIC FUNDS; SUBMISSION DATE; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–495, title I, § 101(f), Oct. 28, 1974, 88 Stat. 1502, provided that:

"(1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the 'Commission') shall conduct a study of the impact of this section [amending sections 1464, 1724, 1728, 1757, 1787, 1813, 1817 and 1821 of Title 12, and enacting provision set out as a note under section 1813 of Title 12] on funds available for housing and on State and local bond markets.

"(2) The Commission shall make a report to the Congress of the results of its study not later than two years after the date of enactment of this Act [Oct. 28, 1974].

"(3) There is authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection."

Chapter 54.—CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

§ 4302. Cabinet Committee on Opportunities for Spanish-Speaking People.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 4310. Authorization of appropriations; availability of funds of Interagency Committee on Mexican-American Affairs.

There are hereby authorized to be appropriated for fiscal years 1970, 1971, 1972, and 1973 such sums as may be necessary to carry out the provisions of this chapter, and any funds made available for expenses of the Interagency Committee on Mexican-American

Affairs established by the President's memorandum of June 9, 1967, shall be available for the purposes of this chapter. (As amended Pub. L. 92–122, Aug. 16, 1971, 85 Stat. 342.)

AMENDMENTS

1971—Pub. L. 92–122 extended authorization of appropriations to fiscal years 1972 and 1973.

Chapter 55.—NATIONAL ENVIRONMENTAL POLICY

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

Sec.

4346a. Travel reimbursement by private organizations and Federal, State, and local governments [New].
4346b. Expenditures in support of international activities [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2242, 4374, 5175, 5304 of this title; title 15 section 793; title 16 section 1602; title 23 section 117; title 30 section 185; title 33 sections 59c–2, 59k, 1371, 1505; title 43 sections 421h, 1577, 1597, 1652; title 49 section 1604.

§ 4321. Congressional declaration of purpose.

TRANSFER OF FUNCTIONS

Functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems, transferred to and vested in the Administrator, Energy Research and Development Administration, see section 5814(g) of this title.

EXTENSION OF TERM OF CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Term of the Citizens' Advisory Committee on Environmental Quality extended until Jan. 5, 1977, unless otherwise sooner terminated, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of Title 5, Government Organization and Employees.

ADMINISTRATION OF REFUSE ACT PERMIT PROGRAM

Administration of Refuse Act permit program to regulate discharge of pollutants and other refuse matter into navigable waters of United States or their tributaries, see Ex. Ord. No. 11574, Dec. 23, 1970, 35 F.R. 19627, set out as a note under section 407 of Title 33, Navigation and Navigable Waters.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

EX. ORD. NO. 11643. ENVIRONMENTAL SAFEGUARDS ON ACTIVITIES FOR ANIMAL DAMAGE CONTROL ON FEDERAL LANDS

Ex. Ord. No. 11643, Feb. 8, 1972, 37 F.R. 2875, as amended by Ex. Ord. No. 11870, July 18, 1975, 40 F.R. 30611, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) [this chapter] and the Endangered Species Conservation Act of 1969 (16 U.S.C. 668aa), it is ordered as follows:

SECTION 1. It is the policy of the Federal Government, consistent with the authorities cited above, to:

(1) Manage the public lands to protect all animal resources thereon in the manner most consistent with the public trust in which such lands are held.

(2) Conduct all mammal or bird damage control programs in a manner which contributes to the maintenance of environmental quality, and to the conservation and protection of the Nation's wildlife resources, including predatory animals.

(3) Restrict the use on public lands and in Federal predator control programs of any chemical toxicant for the purpose of killing predatory animals or birds which would have secondary poisoning effects.

(4) Restrict the use of chemical toxicants for the purpose of killing predatory or other mammals or birds in Federal programs and on Federal lands in a manner which will balance the need for a responsible animal damage control program consistent with the other policies set forth in this Order; and

(5) assure that where chemical toxicants or devices are used pursuant to Section 3(b), only those combinations of toxicants and techniques will be used which best serve human health and safety and which minimize the use of toxicants and best protect nontarget wildlife species and those individual predatory animals and birds which do not cause damage, consistent with the policies of this Order.

SEC. 2. Definitions. As used in this Order the term:

(a) "Federal lands" means all real property owned by or leased to the Federal Government, excluding (1) lands administered by the Secretary of the Interior pursuant to his trust responsibilities for Indian affairs, and (2) real property located in metropolitan areas.

(b) "Agencies" means the departments, agencies and establishments of the Executive branch of the Federal Government.

(c) "Chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death, to animals or to man.

(d) "Predatory mammal or bird" means any mammal or bird which habitually preys upon other animals, birds, reptiles or fish.

(e) "Secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into, a mammal, bird, reptile or fish, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man, mammal, bird, reptile or fish, produces the effects set forth in paragraph (c) of this Section.

(f) "Field use" means use on lands not in, or immediately adjacent to occupied buildings.

SEC. 3. Restrictions on Use of Toxicants. (a) Heads of agencies shall take such action as is necessary to prevent on any Federal lands under their jurisdiction, or in any Federal program of mammal or bird damage control under their jurisdiction:

(1) the field use of any chemical toxicant for the purpose of killing a predatory mammal or bird; or

(2) the field use of any chemical toxicant which causes any secondary poisoning effect for the purpose of killing mammals, birds, or reptiles.

(b) Notwithstanding the provisions of subsection (a) of a chemical toxicant for the purpose of killing predathe emergency use on Federal lands under his jurisdiction of a chemical toxicant for the purpose of killing predatory mammals or birds, or of a chemical toxicant which causes a secondary poisoning effect for the purpose of killing other mammals, birds, or reptiles, but only if in each specific case he makes a written finding, following consultation with the Secretaries of the Interior, Agriculture, and Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, that an emergency exists that cannot be dealt with by means which do not involve use of chemical toxicants, and that such use is essential:

(1) to the protection of the health or safety of human life;

(2) to the preservation of one or more wildlife species threatened with extinction, or likely within the foreseeable future to become so threatened; or

(3) to the prevention of substantial irretrievable damage to nationally significant natural resources.

(c) Notwithstanding the provisions of subsection (a) of this Section, the head of an agency may authorize the use, on an experimental basis, of sodium cyanide to control coyote and other predatory mammal or bird damage to livestock on Federal lands or in Federal programs,

provided that such use is in accordance with all applicable laws and regulations, including those relating to the use of chemical toxicants, and continues for no more than one year.

SEC. 4. Rules for Implementation of Order. Heads of agencies shall issue such rules or regulations as may be necessary and appropriate to carry out the provisions and policy of this Order.

GERALD R. FORD.

EX. ORD. NO. 11644. USE OF OFF-ROAD VEHICLES ON PUBLIC LANDS

Ex. Ord. No. 11644, Feb. 8, 1972, 37 F.R. 2877, provided:

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) [this chapter], it is hereby ordered as follows:

SECTION 1. *Purpose.* It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. *Definitions.* As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

SEC. 4. *Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

SEC. 5. *Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

SEC. 6. *Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

SEC. 7. *Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails are required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

SEC. 8. *Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

RICHARD NIXON.

SUBCHAPTER I.—POLICIES AND GOALS

§ 4331. Congressional declaration of national environmental policy.

EXECUTIVE ORDER NO. 11507

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under this section, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under this section.

EX. ORD. NO. 11752. PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, provided:

By virtue of the authority vested in me as President of the United States of America, including section 301 of title 3 of the United States Code, and in furtherance of the purpose and policies of the Clean Air Act, as amended (42 U.S.C. 1857), the Federal Water Pollution Control

Act, as amended (33 U.S.C. 1251), the Solid Waste Disposal Act, as amended (42 U.S.C. 3251), the Noise Control Act of 1972 (42 U.S.C. 4901), the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* It is the purpose of this order to assure that the Federal Government, in the design, construction, management, operation, and maintenance of its facilities, shall provide leadership in the nationwide effort to protect and enhance the quality of our air, water, and land resources through compliance with applicable standards for the prevention, control, and abatement of environmental pollution in full cooperation with State and local governments. Compliance by Federal facilities with Federal, State, interstate, and local substantive standards and substantive limitations, to the same extent that any person is subject to such standards and limitations, will accomplish the objective of providing Federal leadership and cooperation in the prevention of environmental pollution. In light of the principle of Federal supremacy embodied in the Constitution, this order is not intended, nor should it be interpreted, to require Federal facilities to comply with State or local administrative procedures with respect to pollution abatement and control.

SEC. 2. *Definitions.* As used in this order:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Federal agencies" means the departments, agencies, establishments, and instrumentalities of the executive branch.

(3) The term "State, interstate, and local agencies" means any of the following:

(A) a State agency designated by the Governor of that State as an official State agency responsible for enforcing State and local laws relating to the prevention, control, and abatement of environmental pollution;

(B) any agency established by two or more States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution;

(C) a city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention, control, and abatement of environmental pollution; or

(D) an agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution.

(4) The term "facilities" means the buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal Government.

(5) The term "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 3. *Responsibilities.* (a) Heads of Federal agencies shall, with regard to all facilities under their jurisdiction in the United States:

(1) Ensure that applicable standards specified in section 4 of this order are met on a continuing basis.

(2) Cooperate with the Administrator and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution and, in accordance with guidelines issued by the Administrator, provide to the Administrator and to those agencies such information as is necessary to determine compliance with applicable standards. Such cooperation shall include development of an abatement plan and schedule for meeting applicable standards.

(3) Present to the Director of the Office of Management and Budget, annually, a plan to provide for such improvement in the design, construction, management, operation, and maintenance of existing facilities as may be necessary to meet applicable standards specified in section 4.

(4) Consider the environmental impact in the initial stages of planning for each new facility or modification to an existing facility in accordance with the National Environmental Policy Act [this chapter].

(5) Include with all budget requests for the design and construction of new facilities or for modification of existing facilities funds for such measures as may be necessary to meet applicable standards specified in section 4. Budget requests shall reflect the most efficient alternative for meeting applicable standards.

(6) Consult, as appropriate, with the Administrator and with State and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

(7) Ensure that any funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and unless specifically approved by the Office of Management and Budget.

(b) Where activities are carried out at Federal facilities acquired by leasing or other Federal agreements, the head of the responsible agency may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to assume full responsibility for complying with standards for the prevention, control, and abatement of environmental pollution.

(c) Heads of Federal agencies responsible for the construction and operation of Federal facilities outside the United States shall assure that such facilities are operated so as to comply with the environmental pollution standards of general applicability in the host country or jurisdictions concerned.

(d) The Administrator shall:

(1) Provide technical advice and assistance to the heads of Federal agencies in connection with their duties and responsibilities under this order.

(2) Maintain such review of Federal facilities' compliance with the standards specified in section 4 as may be necessary.

(3) Provide liaison as required to assure that actions taken by Federal agencies pursuant to this order are coordinated with State, interstate, and local programs for the prevention, control, and abatement of environmental pollution.

(4) Mediate conflicts between Federal agencies and State, interstate, or local agencies in matters affecting the application of, or compliance with, applicable standards specified in section 4.

(5) Develop in consultation with the heads of other Federal agencies a coordinated strategy for Federal facility compliance with applicable standards specified in section 4 which incorporates, to the maximum extent practicable, common procedures for an integrated approach to Federal agency compliance with such standards, and issue such regulations and guidelines as are deemed necessary to facilitate implementation of that strategy and to provide a framework for coordination and cooperation among the Environmental Protection Agency, the other Federal agencies, and the State, interstate, and local agencies.

(6) Maintain a continuing review of the implementation of this order and, from time to time, report to the President on the progress of the Federal agencies in implementing this order.

SEC. 4. *Standards.* (a) Heads of Federal agencies shall ensure that all facilities under their jurisdiction are designed, constructed, managed, operated, and maintained so as to conform to the following requirements.

(1) Federal, State, interstate, and local air quality standards and emission limitations adopted in accordance with or effective under the provisions of the Clean Air Act, as amended [section 1857 et seq. of this title].

(2) Federal, State, interstate, and local water quality standards and effluent limitations respecting the discharge or runoff of pollutants adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended [section 1251 et seq. of Title 33, Navigation and Navigable Waters].

(3) Federal regulations and guidelines respecting dumping of material into ocean waters adopted in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972 [section 1431 et seq. of Title 16, Conservation], and the Federal Water Pollution Control Act, as amended

[section 1251 et seq. of Title 33, Navigation and Navigable Waters].

(4) Guidelines for solid waste recovery, collection, storage, separation, and disposal systems issued by the Administrator pursuant to the Solid Waste Disposal Act, as amended [section 3251 et seq. of this title].

(5) Federal noise emission standards for products adopted in accordance with provisions of the Noise Control Act of 1972 [section 4901 et seq. of this title] and State, interstate, and local standards for control and abatement of environmental noise.

(6) Federal guidance on radiation and generally applicable environmental radiation standards promulgated or recommended by the Administrator and adopted in accordance with the Atomic Energy Act, as amended (42 U.S.C. 2011), and rules, regulations, requirements, and guidelines on discharges of radioactivity as prescribed by the Atomic Energy Commission.

(7) Federal regulations and guidelines respecting manufacture, transportation, purchase, use, storage, and disposal of pesticides promulgated pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 [section 136 et seq. of Title 7, Agriculture].

(b) In those cases in which there are no environmental pollution standards as specified in subsection (a) for a particular geographic area or class of Federal facilities, the Administrator, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations, which shall be published in the FEDERAL REGISTER, establishing environmental pollution standards for the purpose of this order.

SEC. 5. *Exemptions.* (a) The heads of Federal agencies, in consultation with the Administrator, may, from time to time, identify facilities or uses thereof which are exempted from applicable standards specified in section 4 in the interest of national security or in extraordinary cases in which it is in the paramount interest of the United States. No such exemptions shall be made except as are permissibe under applicable Federal law.

(b) In any case in which the Administrator does not agree with a determination to exempt a facility or use thereof from the provisions of this order, the head of the Federal agency making such a determination must have the approval of the Director of the Office of Management and Budget to exempt that facility or use thereof; except that, the Administrator is solely responsible for approval of exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 [section 136 et seq. of Title 7, Agriculture].

(c) The heads of Federal agencies shall present to the Director of the Office of Management and Budget at the end of each calendar year a report of all exemptions made during that year, together with the justification for each such exemption.

SEC. 6. *Saving Provisions.* Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, orders, delegations, or other forms of administrative action issued, made, or otherwise taken under the order superseded by Section 7 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

SEC. 7. *Order Superseded.* Executive Order No. 11507 of February 4, 1970, is hereby superseded.

RICHARD NIXON.

§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

* * * * * *

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.[1]

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

(As amended Pub. L. 94–83, Aug. 9, 1975, 89 Stat. 424.)

AMENDMENTS

1975—Subpar. (D). Pub. L. 94–83 added subpar. (D). Former subpar. (D) redesignated (E).

Subpars. (E) to (I). Pub. L. 94–83 redesignated former subpars. (D) to (H) as (E) to (I), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2242, 4334 of this title; title 15 section 793; title 30 section 185; title 33 section 1504, title 45 section 791; title 49 section 1431.

§ 4341. Reports to Congress; recommendations for legislation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4344, 5910 of this title.

[1] So in original. The period probably should be a semicolon.

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

§ 4343. Employment of personnel, experts and consultants.

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of Title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 665(b) of Title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council. (As amended Pub. L. 94–52, § 2, July 3, 1975, 89 Stat. 258.)

AMENDMENTS

1975—Pub. L. 94–52 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4346a. Travel reimbursement by private organizations and Federal, State, and local governments.

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council. (Pub. L. 91–190, title II, § 207, as added Pub. L. 94–52, § 3, July 3, 1975, 89 Stat. 258.)

§ 4346b. Expenditures in support of international activities.

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries. (Pub. L. 91–190, title II, § 208, as added Pub. L. 94–52, § 3, July 3, 1975, 89 Stat. 258.)

§ 4347. Authorization of appropriations.

Section 207 of Pub. L. 91–190 was renumbered 209 by Pub. L. 94–52, § 3, July 3, 1975, 89 Stat. 258.

Chapter 56.—ENVIRONMENTAL QUALITY IMPROVEMENT

§ 4372. Office of Environmental Quality.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

§ 4374. Authorization of appropriations.

There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality $2,000,000 for the fiscal year ending June 30, 1976, and not to exceed $500,000 for the transition period (July 1, 1976 to September 30, 1976). This authorization is in addition to those contained in Public Law 91–190. (As amended Pub. L. 93–36, May 18, 1973, 87 Stat. 72; Pub. L. 94–52, § 1, July 3, 1975, 89 Stat. 258.)

REFERENCES IN TEXT

Pub. L. 91–190, referred to in the text, is classified to section 4321 et seq. of this title. See Short Title note set out under section 4321 of this title.

AMENDMENTS

1975—Pub. L. 94–52 substituted "$2,000,000 for the fiscal year ending June 30, 1976, and not to exceed $500,000 for the transition period (July 1, 1976 to September 30, 1976)" for "$1,500,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975".

1973—Pub. L. 93–36 substituted provisions authorizing to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality $1,500,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975, for provisions authorizing to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973.

Chapter 58.—DISASTER RELIEF

SUBCHAPTER II.—ADMINISTRATION OF DISASTER ASSISTANCE

Sec.
4413a. Housing and Urban Development Disaster Assistance Fund [Transferred].
4485. Private medical care facilities grants for repair, reconstruction, or replacement of damaged or destroyed facilities [New; Repealed].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4003 of this title; title 7 section 1961; title 26 sections 165, 5064, 5708; title 33 section 701s; title 40 section 461.

SUBCHAPTER I.—GENERALLY

§§ 4401, 4402. Repealed. Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

Section 4401, Pub. L. 91–606, title I, § 101, Dec. 31, 1970, 84 Stat. 1744, related to Congressional findings and declarations.

Section 4402, Pub. L. 91–606, title I, § 102, Dec. 31, 1970, 84 Stat. 1745, related to definitions.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SAVINGS PROVISION

Section 603 of Pub. L. 93–288 provided in part that notwithstanding repeal of the provisions of Disaster Relief Act of 1970, such provisions should continue in effect with respect to any major disaster declared prior to May 22, 1974.

REFERENCES TO DISASTER RELIEF ACT OF 1970

Section 602(m) of Pub. L. 93–288 provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act af 1974, see Short Title note under section 5121 of this title]), regulation rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744) [see Short Title note hereunder], repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act."

AVAILABILITY OF FUNDS APPROPRIATED UNDER THIS CHAPTER FOR USE UNDER CHAPTER 68

Section 604 of Pub. L. 93–288 provided that: "Funds heretofore appropriated and available under Public Laws 91–606, as amended [this chapter], and 92–385 [which amended section 4451 of this title and sections 633 and

636 of Title 15, repealed section 1969 of Title 7, enacted provisions set out as notes under this section and section 636 of Title 15] shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act [see Short Title note hereunder]."

APPLICABLE LAW

Section 301(1) of Pub. L. 91–606 was repealed by Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

REPORT TO CONGRESS; PROPOSALS FOR LEGISLATION

Section 3 of Pub. L. 92–385, Aug. 16, 1972, 86 Stat. 556 provided that:

"The President shall conduct a thorough review of existing disaster relief legislation, and not later than January 1, 1973, he shall transmit to the Congress a report containing specific legislative proposals for the comprehensive revision of such legislation in order to—

"(1) standardize the amount of benefits available to persons affected by disasters so as to achieve fairness and consistency with regard to the amount of benefits provided to such persons and to preclude the need for separate legislation to aid persons affected by future disasters;

"(2) improve the execution of the Government's disaster relief program by eliminating unnecessary administrative procedures and reducing the number of agencies involved in disaster relief or increasing individual agency authority and responsibility; and

"(3) prevent the misuse of benefits made available under the program."

SUBCHAPTER II.—ADMINISTRATION OF DISASTER ASSISTANCE

EXECUTIVE ORDER NO. 11526

Ex. Ord. No. 11526, Apr. 22, 1970, 35 F.R. 6569, set out as a note preceding this section, which related to the National Council on Federal Disaster Assistance, was superseded by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note preceding this section.

EXECUTIVE ORDER NO. 11575

Ex. Ord. No. 11575, Dec. 31, 1970, 36 F.R. 37, as amended by Ex. Ord. No. 11662, Mar. 29, 1972, 37 F.R. 6563, set out as a note preceding this section, which related to the administration of this chapter, was superseded by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note preceding this section.

§§ 4411 to 4413. Repealed. Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

Section 4411, Pub. L. 91–606, title II § 201, Dec. 31, 1970, 84 Stat. 1747, related to cooperation of Federal agencies of a Federal coordinating officer.

Section 4412, Pub. L. 91–606, title II, § 202, Dec. 31, 1970, 84 Stat. 1746, related to the formation of emergency support teams of Federal personnel.

Section 4413, Pub. L. 91–606, title II, § 203, Dec. 31, 1970, 84 Stat. 1747, related to cooperation of Federal agencies in rendering emergency assistance, the scope of services, non-liability of the Federal government, employment of temporary personnel, rules and regulations, review of programs, and reports to Congress.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974 see section 605 of Pub. L. 93–238, set out as a note under section 5121 of this title.

§ 4413a. Transferred.

Section is transferred to section 3539 of this title.

§§ 4414 to 4420. Repealed. Pub. L 93–288, title VI, § 603 May 22, 1974, 88 Stat. 164.

Section 4414, Pub. L. 91–606, title II, § 204, Dec. 31, 1970, 84 Stat. 1748, related to use of local firms and individuals.

Section 4415, Pub. L. 91–606, title II, § 205, Dec. 31, 1970, 84 Stat. 1748, related to Federal grant-in-aid programs.

Section 4416, Pub. L. 91–606, title II § 206, Dec. 31, 1970, 84 Stat. 1749, related to state disaster plans.

Section 4417, Pub. L. 91–606, title II, § 207, Dec. 31, 1970, 84 Stat. 1749, related to use and coordination of relief organizations.

Section 4418, Pub. L. 91–606, title II, § 208, Dec. 31, 1970, 84 Stat. 1750, related to restriction on duplication of benefits.

Section 4419, Pub. L. 91–606, title II, § 209, Dec. 31 1970, 84 Stat. 1750, related to nondiscrimination restrictions in disaster assistance.

Section 4420, Pub. L. 91–606, title II, § 210, Dec. 31, 1970, 84 Stat. 1750, related to disaster warnings.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§§ 4431 to 4436. Repealed. Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

Section 4431, Pub. L. 91–606, title II, § 221, Dec. 31, 1970, 84 Stat. 1751, related to predisaster assistance.

Section 4432, Pub. L. 91–606, title II, § 222, Dec 31, 1970, 84 Stat. 1751, related to emergency communications.

Section 4433, Pub. L. 91–606, title II, § 223, Dec. 31, 1970, 84 Stat. 1751, related to emergency transportation.

Section 4434, Pub. L. 91–606, title II, § 224, Dec. 31, 1970, 84 Stat. 1751, related to removal of debris.

Section 4435, Pub. L. 91–606, title II, § 225, Dec. 31, 1970, 84 Stat. 1751, related to fire suppression

Section 4436, Pub. L. 91–606, title II, § 226, Dec. 31, 1970, 84 Stat. 1751, related to temporary housing assistance.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 4451. Transferred.

Section is transferred to section 636a of Title 15, Commerce and Trade.

§ 4452. Repealed. Pub. L. 93–24, § 7, Apr. 20, 1973, 87 Stat. 25.

Section, Pub. L. 91–606, title II, § 232, Dec. 31, 1970, 84 Stat. 1753, provided for emergency farm loans. See emergency loans for designated major disaster areas provided in section 1961(b) of Title 7, Agriculture.

§§ 4453 to 4456. Transferred.

Sections are now set out as follows:

Old sections	*New sections*
4453	Title 15, § 636b
4454	Title15, § 636c
4455(a)	Title 7, § 912a
4455(b)	Title 42, § 3538
4456	Title 15, § 636d

§§ 4457 to 4462. Repealed. Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

Section 4457, Pub. L. 91–606, title II, § 238, Dec. 31, 1970, 84 Stat. 1755, related to food stamp and surplus commodities programs.

Section 4458, Pub. L. 91–606, title II, § 239, Dec. 31, 1970, 84 Stat 1755, related to legal services.

Section 4459, Pub. L. 91–606, title II, § 240, Dec. 31, 1970, 84 Stat. 1755, related to unemployment assistance.

Section 4460, Pub. L. 91–606, title II, § 241, Dec. 31, 1970, 84 Stat. 1756, related to community disaster grants to local governments.

Section 4461, Pub L. 91–606, title II, § 242, Dec. 31, 1970, 84 Stat. 1756, related to timber sale contracts.

Section 4462, Pub. L. 91–606, title II, § 243, Dec. 31, 1970, 84 Stat. 1757, related to standards for residential structure restoration.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub L. 93–288, set out as a note under section 5121 of this title.

§§ 4481 to 4485. Repealed. Pub. L. 93–288, title VI, § 603, May 22, 1974, 88 Stat. 164.

Section 4481, Pub. L. 91–606, title II, Dec. 31, 1970, 84 Stat. 1757, related to repair and restoration of damaged United States facilities.

Section 4482, Pub. L. 91–606, title II, § 252, Dec. 31, 1970, 84 Stat. 1757, as amended by Pub L. 93–251 title I, § 45(a), Mar. 7, 1974, 88 Stat. 24, related to restoration of state and local public facilities.

Section 4483, Pub. L. 91–606, title II, § 253, Dec. 31, 1970, 84 Stat. 1758, related to priority to applications for public facility and public housing assistance in major disaster areas.

Section 4484, Pub. L 91–606, title II, § 254, Dec. 31, 1970, 84 Stat. 1758, related to relocation assistance.

Section 4485, Pub. L. 91–606, tile II, § 255, as added Pub. L. 92–209, § 1, Dec. 18, 1971, 85 Stat. 742, related to private medical care facilities grants for repair, reconstruction, or replacement of damaged or destroyed facilities.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

Chapter 59.—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 5307 of this title.

PART B.—DEVELOPMENT OF NEW COMMUNITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 40 section 461.

§ 4512. Definitions.

As used in this part—

* * * * *

(f) The term "land development" means the process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage or waste disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, community or neighborhood central heating or air conditioning systems, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage or waste disposal installation, a community or neighborhood central heating or air-conditioning system, or a steam, gas, or electric line or installation, or (2) is to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

* * * * *

(i) The term "New Community Development Corporation" means the corporation established within the Department of Housing and Urban Development under section 4532 of this title. (As amended Pub. L. 93–383, title VIII, § 803 (a) (1), (e), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (f). Pub. L. 93–383, § 803(e), added references to community or neighborhood central heating or air conditioning systems and waste disposal wherever appearing therein.

Subsec. (i). Pub. L. 93–383, § 803(a)(1), substituted reference to New Community Development Corporation for reference to Community Development Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5302 of this title.

§ 4513. Eligible new community development.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5302 of this title.

§ 4514. Guarantees; prohibition; grants; limitations.

(a) The Secretary (acting through the New Community Development Corporation) is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by or on behalf of private new community developers and State land development agencies for the purpose of financing real property acquisition and land development and to compensate for the use of real property or the removal of liens or encumbrances on such property, pursuant to the new community development programs approved by the Secretary. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he may prescribe consistent with the limitations and conditions contained in section 4517 of this title; except that no obligation of any State land development agency shall be guaranteed under this section if the income from such obligation is exempt from Federal taxation. The Secretary is authorized to make grants to any State land development agency the obligations of which are guaranteed under this section in amounts equal to 30 per centum of the interest paid on such obligations.

* * * * *

(e) The aggregate of the outstanding principal obligations guaranteed under this section shall at no time exceed $500,000,000, which amount shall be increased by $195,500,000 on July 1, 1973. (As amended Pub. L. 93–117, § 12, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title VIII, § 803(a)(1), (c), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 added "New" preceding "Community" and substituted provisions authorizing grants in amounts equal to 30 per centum of the interest paid on obligations for provisions authorizing grants in amounts estimated not to exceed the difference between the interest paid on obligations and the interest paid on obligations which have income exempt from Federal taxation.

1973—Subsec. (e). Pub. L. 93–117 provided for an increase in the authorized aggregate amount by $195,500,000 on July 1, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4518 of this title.

§ 4515. Loans; repayment; interest rate; limitations.

(a) The Secretary (acting through the New Community Development Corporation) is authorized, subject to the limitations and conditions contained in section 4517 of this title, to make and enter into agreements to make loans to or on behalf of private new community developers and State land development agencies for the purpose of assisting them to make interest payments on indebtedness incurred by

them to finance new community development programs approved by him. Loans under this section shall be in amounts which do not exceed the amount of interest the Secretary estimates is payable on indebtedness attributable to land acquisition or land development and shall be made only with respect to interest payments on indebtedness outstanding during an initial development period (not to exceed fifteen years) which the Secretary estimates to be prior to the time when land marketing activity is of sufficient volume to permit continued development under the new community development program without the benefit of further loans under this section.

* * * * *

(As amended Pub. L. 93–383, title VIII, § 803(a)(1), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 added "New" preceding "Community".

§ 4516. Public service grants; authorization of appropriations.

In addition to providing assistance under the preceding sections, the Secretary (acting through the New Community Development Corporation) may make public service grants (in such amounts and on such terms and conditions as he deems appropriate) to a State land development agency or to the State or local public body having responsibility for providing the services involved to cover the cost of providing during an initial period (not exceeding three years) essential public services (including educational, health, and safety services) which the Secretary deems necessary adequately to serve the needs of the residents of the development prior to completion of permanent arrangements for the provisions of such services. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. (As amended Pub. L. 93–383, title VIII, § 803(a)(1), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Pub. L. 93–383 added "New" preceding "Community".

§ 4519. Supplementary grants for public facilities; new community assistance project; authorization of appropriations.

(a) The Secretary is authorized to make supplementary grants to any State, local public body or agency, or other entity carrying out a new community assistance project, as defined in subsection (c) of this section, if the Secretary determines that such project is necessary or desirable for carrying out a new community development program. In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

* * * * *

(c) For the purposes of this section, a "new community assistance project" is a project assisted by grants under section 3 of the Urban Mass Transportation Act of 1964; section 120(a) of title 23, United States Code; section 19 of the Airport and Airway Development Act of 1970; title VI of the Public Health Service Act; title II of the Library Services and Construction Act; section 5 of the Land and Water Conservation Fund Act of 1965; title VII of the Housing Act of 1961; section 702 or 703 of the Housing and Urban Development Act of 1965; section 8 of the Federal Water Pollution Control Act; section 306(a)(2) of the Consolidiated Farmers Home Administration Act; section 103 or 104 of the Higher Education Facilities Act of 1963; or section 101(a)(1) of the Public Works and Economic Development Act of 1965 with respect to projects of a type eligible for assistance under any of the other provisions of law listed in this subsection, or a project or portion of a project consisting of the purchase, renovation, or construction of facilities, the purchase of land, or the acquisition of equipment or works of art assisted by contracts or grants under section 5 of the National Foundation on the Arts and the Humanities Act of 1965.

* * * * *

(As amended Pub. L. 92–213, § 7, Dec. 22, 1971, 85 Stat. 776; Pub. L. 93–383, title VIII, § 803(d), Aug. 22, 1974, 88 Stat. 725.)

REFERENCES IN TEXT

The provisions, referred to in subsec (c), are classified to the Code, as follows:

Section 3 of Urban Mass Transportation Act of 1964 (Pub. L. 88–365, July 9, 1964, 78 Stat. 302, as amended) is classified to section 1602 of Title 49, Transportation.

Section 19 of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 219) is classified to section 1719 of Title 49.

Title VI of Public Health Service Act (act July 1, 1944, ch. 373, 58 Stat. 682, as amended), is classified to section 291 et seq. of this title.

Title II of Library Services and Construction Act (act June 19, 1956, ch. 407, 70 Stat. 293, as amended), is classified to section 355a et seq. of Title 20, Education.

Section 5 of Land and Water Conservation Fund Act of 1965 (Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897), referred to in subsec. (c), is classified to section 460*l*–8 of Title 16, Conservation.

Title VII of Housing Act of 1961 (Pub. L. 87–70, June 30, 1961, 75 Stat. 149, as amended), is classified to chapter 8C (section 1500 et seq.) of this title.

Sections 702 and 703 of Housing and Urban Development Act of 1965 (Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, as amended) are classified to sections 3102 and 3103 of this title.

Section 8 of the Federal Water Pollution Control Act (Act June 30, 1948, ch. 758, 62 Stat. 1155, as amended), referred to in subsec. (c), was formerly classified to section 1158 of Title 33, Navigation and Navigable Waters. That Act was amended, reorganized, and expanded by Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816, and is now classified to section 1251 et seq. of Title 33. For provisions relating to grants for construction of treatment works, see section 1281 et seq. of Title 33.

Section 306(a)(2) of Consolidated Farmers Home Administration Act (Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 307) is classified to section 1926(a)(2) of Title 7, Agriculture.

Sections 103 and 104 of the Higher Education Facilities Act of 1963 (Pub. L. 88–204, Dec. 16, 1963, 77 Stat. 363), referred to in subsec. (c), formerly classified to sections 715 and 716 of Title 20, Education, were repealed by Pub. L. 92–318, § 161(b)(2), June 23, 1972, 86 Stat. 303, and are now covered by sections 1132a–3 and 1132a–4 of Title 20.

Section 101(a)(1) of Public Works and Economics Development Act of 1965 (Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552) is classified to section 3131 of this title.

Section 412 of Housing and Urban Development Act of 1968 (Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476) is classified to section 3911 of this title.

Section 5 of the National Foundation on the Arts and the Humanities Act of 1965, referred to in subsec. (c), is classified to section 954 of Title 20, Education.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-383 added reference to projects, etc., authorized under section 5 of the National Foundation on the Arts and the Humanities Act of 1965.

1971—Subsec. (a). Pub. L. 92-213 added "other entity" to the enumeration of potential recipients to which supplementary grants may be made.

§ 4531. Joint funding.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget see section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 4532. New Community Development Corporation.

(a) Establishment.

There is hereby created within the Department of Housing and Urban Development a body corporate to be known as the New Community Development Corporation which shall carry out its functions subject to the direction and supervision of the Secretary.

(b) Membership; compensation and travel expenses.

The Corporation shall have a Board of Directors (hereinafter referred to as the "Board") which shall consist of seven members as follows:

* * * * *

(3) five persons, to be appointed by the Secretary who shall serve at his pleasure, but not more than one such person shall be selected from among officers or employees of the Department of Housing and Urban Development.

* * * * *

(c) Functions.

The functions of the Secretary with respect to guarantees and loans in aid of new community development under this part shall be administered through the New Community Development Corporation, and the Corporation shall perform such additional functions, powers, and duties as the Secretary may prescribe from time to time. (As amended Pub. L. 93-383, title VIII, § 803 (a), (b), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 803(a), added "New" preceding "Community".

Subsec. (b). Pub. L. 93-383, § 803(b), substituted "seven" for "five" in provisions preceding par. (1) and "five" for "three" in par. (3).

Subsec. (c). Pub. L. 93-383, § 803(a), added "New" preceding "Community".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4512 of this title.

Chapter 60.—COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAM

Sec.

4541. Congressional findings and declaration of purpose [New].
4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services [New].

SUBCHAPTER I—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

4553. Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism [New].
(a) Establishment; functions.
(b) Chairman of Committee; membership; meetings.
(c) Term of office; vacancies; original appointments.
(d) Compensation and travel expenses.
(e) Staff, information, and other assistance.

PART A.—GRANTS TO STATES

4574. Special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act [New].
(a) Grant period; State's costs; number.
(b) Applications; submission; approval by Secretary; form; contents; determinations; consistency of Uniform Act and State plan.
(c) Maximum amount; payments: advances or reimbursement, intervals, conditions.
(d) Authorization of appropriations.

PART B.—PROJECT GRANTS AND CONTRACTS

4577. Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism [New].
(a) Projects and programs.
(b) Community participation.
(c) Applications; coordination in State; evaluation of projects and programs: copy to applicant; criteria for approval.
(d) Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 2012.

§ 4541. Congressional findings and declaration of purpose.

(a) The Congress finds that—

(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States;

(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

(3) problem drinking costs the national economy at least $15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

(4) alcohol abuse is found with increasing frequency among persons who are multiple-drug abusers and among former heroin users who are being treated in methadone maintenance programs;

(5) alcohol abuse is being discovered among growing numbers of youth; and

(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies.

(b) It is the policy of the United States and the purpose of this chapter to (1) approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and (2) meet the problems of alcohol abuse and alcoholism not only through Federal assistance to the States but also through direct Federal assistance to community-based programs meeting the urgent needs of special populations and developing methods for diverting problem

drinkers from criminal justice systems into prevention and treatment programs. (Pub. L. 91–616, § 2, as added Pub. L. 93–282, title I, § 102(a), May 14, 1974, 88 Stat. 126.)

SHORT TITLE OF 1974 AMENDMENT

Section 101 of Pub. L. 93–282 provided that: "This title [which enacted sections 4541, 4542, 4553, 4572(d), 4573(a)(10), and 4577 of this title, amended sections 242a(a), 4571, 4572(b), 4573(a)(3), 4581, and 4582 of this title, redesignated former section 4573(a)(10) as 4573(a)(11) of this title, and enacted provisions set out as notes under sections 4581 and 4582 of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974'."

§ 4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services.

The Congress declares that, in addition to the programs under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, programs under other Federal laws which provide Federal or federally assisted research, prevention, treatment, or rehabilitation in the fields of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem. (Pub. L. 93–282, title I, § 102(b), May 14, 1974, 88 Stat. 126.)

CODIFICATION

Section was enacted as a part of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, Rehabilitation Act Amendments of 1974, and not as a part of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, which is classified to this chapter.

SUBCHAPTER I.—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 300*l*–2, 300m, 300m–3 of this title.

§ 4551. National Institute on Alcohol Abuse and Alcoholism.

(a) Establishment; functions of Institute; functions of Secretary regarding alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs.

There is established the National Institute on Alcohol Abuse and Alcoholism (hereafter in this chapter referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this chapter referred to as the "Secretary") by this chapter and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 241 and 242a of this title with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitations of alcohol abusers and alcoholics. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) Appointment of Director and employment and functions of officers and employees of Institute.

(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out though the Institute.

(c) Administration of programs to encourage widest participation of professionals and paraprofessionals in certain related disciplines.

The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines. (As amended Pub. L. 93–282, title II, § 203(a), May 14, 1974, 88 Stat. 135.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–282 deleted provisions for establishment of the Institute in the National Institute of Mental Health, inserted reference to section 242a of this title, and required the Secretary to carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions required for implementation of prescribed programs and authorities.

Subsec. (b). Pub. L. 93–282 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93–282 added subsec. (c).

§ 4552. Reports and recommendations.

The Secretary shall—

* * * * *

(2) submit to Congress on or before the expiration of the one-year period beginning December 31, 1970, and every three years thereafter, a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress;

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism; and

(5) submit to Congress on or before the end of each calendar year a report on the extent to which other Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism.

Before submitting a report under paragraph (5), the Secretary shall give each department and agency of the Government which (or a program of which) is referred to in the report he proposes to submit under such paragraph an opportunity to comment on the proposed report; and the Secretary shall include in the report submitted to Congress under such paragraph the comments received by him from any such department or agency within 30 days from the date the proposed report was submitted to such de-

partment or agency. (As amended Pub. L. 93–282, title II, § 203(b)(1), (2)(A), May 14, 1974, 88 Stat. 136.)

AMENDMENTS

1974—Pub. L. 93–282 provided for triennial reports in par. (2) and added par. (5) and provision for opportunity for agency comments on proposed par. (5) reports.

SUBMITTAL DATE OF INITIAL PAR. (5) REPORT

Section 203(b)(2)(B) of Pub. L. 93–282 provided that: "The first report to be submitted by the Secretary of Health, Education, and Welfare under section 102(5) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [par. (5) of this section] shall be submitted not later than December 31, 1974."

§ 4553. Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism.

(a) Establishment; functions.

The Secretary shall establish an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the "Committee"). The Committee shall (1) evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

(b) Chairman of Committee; membership; meetings.

The Secretary or the Director of the National Institute on Alcohol Abuse and Alcoholism (or the Director's designee) shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the Secretary from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(c) Term of office; vacancies; original appointments.

Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(d) Compensation and travel expenses.

Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(e) Staff, information, and other assistance.

The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively. (Pub. L. 91–616, title I, § 103, as added Pub. L. 93–282, title I, § 131, May 14, 1974, 88 Stat. 133.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out in section 5332 of Title 5, Government Organization and Employees.

PART A.—GRANTS TO STATES

§ 4571. Authorization of appropriations.

There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for each of the next two fiscal years, $80,000,000 for the fiscal year ending June 30, 1975, and $80,000,000 for the fiscal year ending June 30, 1976, for grants to States assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States. (As amended Pub. L. 92–554, Oct. 25, 1972, 86 Stat. 1167; Pub. L. 93–282, title I, § 105(a), May 14, 1974, 88 Stat. 127.)

AMENDMENTS

1974—Pub. L. 93–282 authorized appropriation of $80,000,000 for fiscal years ending June 30, 1975 and June 30, 1976.

1972—Pub. L. 92–554 substituted "for each of the next two fiscal years" for "for the fiscal year ending June 30, 1973".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4572 of this title.

§ 4572. State allotment.

* * * * *

(b) Availability of unused allotments for use in succeeding years.

Any amount allotted to a State in a fiscal year (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State

for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallocated by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) of this section to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States, which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the period.

* * * * *

(d) Reduction of allotment upon request of any State for assignment of Department officers and employees or for equipment or supplies in lieu of portion of allotment; consideration of expenditures as payment to the State.

On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment of such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under subsection (a) of this section, be deemed to have been paid to the State. (As amended Pub. L. 93–282, title I, § 106(a), May 14, 1974, 88 Stat. 127.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–282, § 106(a)(2), substituted in first sentence "allotted to a State in a fiscal year" for "so allotted to a State" and in second sentence "in a fiscal year" for "for a fiscal year".

Subsec. (d). Pub. L. 93–282, § 160(a)(1), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4574 of this title.

§ 4573. State plans; approval.

(a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

* * * * *

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations, of groups to be served with attention to assuring representation of minority and poverty groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, to consult with the State agency in carrying out the plan;

* * * * *

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

(10) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for (A) construction and licensing of public and private treatment facilities, and (B) for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse; and

(11) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

* * * * *

(As amended Pub. L. 93–282, title I, § 106(b), May 14, 1974, 88 Stat. 127.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–282, § 106(b)(1), substituted ", of groups to be served with attention to assuring representation of minority and poverty groups" for "or groups".

Subsec. (a)(10). Pub. L. 93–282, § 106(b)(3), (4), added par. (10) and redesignated former par. (10) as (11).

Subsec. (a)(11). Pub. L. 93–282, § 106(b)(3), redesignated former par. (10) as (11).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4574, 4577 of this title.

§ 4574. Special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act.

(a) Grant period; State's costs; number.

To assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (hereinafter in this section referred to as the "Uniform Act") to utilize fully the protections of the Uniform Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, the Secretary, acting through the Institute, shall, during the period beginning July 1, 1974, and ending June 30, 1977, make grants to such States for the implementation of the Uniform Act. A grant under this section to any State may only be made for that State's costs (as determined in accordance with regulations which the Secretary

shall promulgate not later than July 1, 1974) in implementing the Uniform Act for a period which does not exceed one year from the first day of the first month for which the grant is made. No State may receive more than three grants under this section.

(b) Applications; submission; approval by Secretary; form; contents; determinations; consistency of Uniform Act and State plan.

No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State under this section unless he determines the following:

(1) The State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies, and, in accordance with the purposes of sections 1 and 19 of the Uniform Act, have repealed those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

(2) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Act):

(A) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

(B) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(C) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(D) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(E) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

(3) The laws of the State respecting involuntary commitment of alcoholics are consistent with the provisions of section 14 of the Uniform Act which protect individual rights.

(4) The application of the State contains such assurances as the Secretary may require to carry out the purposes of this section.

For purposes of subsection (a) of this section, the term "basic provisions of the Uniform Alcoholism and Intoxication Treatment Act" shall not in the case of a State which has a State plan approved under section 4573 of this title include any provision of the Uniform Act respecting the organization of such State's treatment programs (as defined in the Uniform Act) which are inconsistent with the requirements of such State plan.

(c) Maximum amount; payments: advances or reimbursement, intervals, conditions.

The amount of any grant under this section to any State for any fiscal year may not exceed the sum of $100,000 and an amount equal to 10 per centum of the allotment of such State for such fiscal year under section 4572 of this title. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(d) Authorization of appropriations.

For the purpose of making payments under grants under this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years. (Pub. L. 91–616, title III, § 304, as added Pub. L. 93–282, title I, § 107, May 14, 1974, 88 Stat. 127.)

PART B.—PROJECT GRANTS AND CONTRACTS

§ 4577. Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism.

(a) Projects and programs.

The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

(1) to conduct demonstration, service, and evaluation projects,

(2) to provide education and training,

(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

(4) to provide counseling and education activities on an individual or community basis.

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Community participation.

Projects and program for which grants and contracts are made under this section shall (1) whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; and (2) where appropriate utilize existing community resources (including community mental health centers).

(c) Applications; coordination in State; evaluation of projects and programs: copy to applicant; criteria for approval.

(1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 4573 of this title, if such designation has been made. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or program set forth in the application. Such evaluation shall include comments on the relationship of

the project to other projects and programs pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under section 4573 of this title. The State shall furnish the applicant a copy of any such evaluation.

(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects;

(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provides reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the projects and programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(d) Authorization of appropriations.

To make payments under grants and contracts under this section, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1975, and $95,000,000 for the fiscal year ending June 30, 1976. (Pub. L. 91–616, title III, § 311, as added Pub. L. 93–282, title I, § 111, May 14, 1974, 88 Stat. 129.)

CODIFICATION

A prior section 311 of Pub. L. 91–616, title III, Dec. 31, 1970, 84 Stat. 1851, amended former section 2688j–2 of this title, which was repealed by Pub. L. 93–282, title III, § 302, May 14, 1974, 88 Stat. 137, and is now incorporated in this section.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title II, § 247, formerly 246, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, renumbered Pub. L. 91–211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 91–616, title III, § 311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93–45, title II, § 204(b), June 18, 1973, 87 Stat. 94 (formerly classified to section 2688j–2 of this title) prior to repeal of such provision by Pub. L. 93–282, title III, § 302, May 14, 1974, 88 Stat. 137.

PART C.—ADMISSION TO HOSPITALS; CONFIDENTIALITY OF RECORDS

§ 4581. Admission of alcohol abusers and alcoholics to general hospitals.

(a) Discrimination prohibition against private or public hospitals receiving any Federal support.

Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) Regulations of Secretary: enforcement procedures, suspension or revocation of Federal support; regulations of Administrator: applicable regulations for veterans; coordination of respective regulations.

(1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) of this section with respect to the admission and treatment of alcohol abusers and alcoholics in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) of this section has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) of this section and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital.

(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under Title 38, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such Title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe. (As amended Pub. L. 93–282, title I, § 121(a), May 14, 1974, 88 Stat. 130.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–282, in revising the text, prohibited discrimination because of alcohol abuse, substituted provisions respecting eligibility for admission and treatment based on suffering from medical conditions for former provision based on medical need and ineligibility, because of discrimination, for support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency for former requirement for treatment by a general hospital which received Federal funds, and deleted prohibition against receiving Federal financial assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93–282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Section 121(b) of Pub. L. 93–282 provided that: "The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 321(b)(2) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [subsec. (b)(2) of this section], (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 321(b)(1) of such Act [subsec. (b)(1) of this section], (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 321(b)(1) [subsec. (b)(1) of this section], and shall timely publish such report in the Federal Register."

§ 4582. Confidentiality of patient records.

(a) Disclosure authorization.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Purposes and circumstances of disclosure affecting consenting patient and patient regardless of consent.

(1) The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Prohibition against use of record in making criminal charges or investigation of patient.

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) Continuing prohibition against disclosure irrespective of status as patient.

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) Armed Forces and Veterans' Administration; interchange of records.

The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Penalty for first and subsequent offenses.

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Regulations of Secretary; definitions, safeguards, and procedures, including procedures and criteria for issuance and scope of orders.

Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) Regulations of Administrator; applicable regulations for veterans; coordination with regulations of Secretary.

The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities

under Title 38, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such Title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe. (As amended Pub. L. 93–282, title I, § 122(a), May 14, 1974, 88 Stat 131.)

AMENDMENTS

1974—Subsecs. (a)–(h). Pub. L. 93–282 substituted subsecs. (a) to (h) for former provisions empowering the Secretary to authorize persons engaged in research on, or treatment with respect to alcohol abuse and alcoholism to protect the privacy of individuals who were the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names or other identifying characteristics of such individuals and prohibiting compulsory identification of such individuals in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding by any persons so authorized to protect the privacy of such individuals.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER.

Section 122(c) of Pub. L. 93–282 provided that: "The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 333(h) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [subsec. (h) of this section], (2) explaining the basis for any inconsistency between such regulations and regulations of the Secretary under section 333(g) of such Act [subsec. (g) of this section], (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 333(g) [subsec. (g) of this section], and shall timely published such report in the Federal Register."

Chapter 61.—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.

4603. Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park System; waiver of benefits [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5181 of this title; title 16 section 460o–1; title 23 section 117; title 25 section 640d–14; title 40 sections 616, 875, 877; title 43 sections 1578, 1598; title 49 section 1604.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 4601. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4603 of this title; title 16 sections 460*l*–8, 460bb–2, 698b, 698h.

§ 4603. Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park System; waiver of benefits.

(a) In all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of this chapter. There are also authorized to be appropriated not to exceed $8,400,000 in addition to those authorized in Public Law 92–272 to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92–272.

(b) Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the National Park System, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of this title, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(b) of this title. (Pub. L. 93–477, title IV, § 405, Oct. 26, 1974, 88 Stat. 1448.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), read in the original "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", which is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894. For additional distribution in Code, see Short Title note under section 4601 of this title.

Public Law 92–272, referred to in subsec. (a), is Pub. L. 92–272, April 11, 1972, 86 Stat. 120, and provided for increases in appropriation ceilings in certain units of the national park system. For distribution in Code, see Tables Volume.

CODIFICATION

Section was not enacted as part of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which comprises this chapter.

SUBCHAPTER II.—UNIFORM RELOCATION ASSISTANCE

§ 4622. Moving and related expenses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 640d–14.

§§ 4623 to 4626.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 4603 of this title; title 16 sections 460*l*–8, 460bb–2, 698b, 698h.

§§ 4630, 4631.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in section 5–732a of the District of Columbia Code.

SUBCHAPTER III.—UNIFORM REAL PROPERTY ACQUISITION POLICY

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 5–732a of the District of Columbia Code.

§ 4651. Uniform policy on real property acquisition practices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 698f.

Chapter 62.—INTERGOVERNMENTAL PERSONNEL PROGRAM

§ 4712. Advisory council on intergovernmental personnel policy.

EXECUTIVE ORDER No. 11607

Ex. Ord. No. 11607, July 20, 1971, 36 F.R. 13317, formerly set out as a note under this section, which established the Advisory Council on Intergovernmental Personnel Policy, was revoked by Ex. Ord. No. 11792, June 25, 1974, 39 F.R. 23191.

§ 4723. Local government programs and grants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4762 of this title.

§ 4728. Transfer of functions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300m–1 of this title.

§ 4743. Grants to State and local governments for training.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4762 of this title.

§ 4762. Definitions.

For the purpose of this chapter—

* * * * *

(3) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States, and includes interstate and Federal-interstate agencies but does not include the governments of the political subdivisions of a State;

(4) "local government" means a city, town county, or other subdivision or district of a State, including agencies, instrumentalities, and authorities of any of the foregoing and any combination of such units or combination of such units and a State. A "general local government" means a city, town, county, or comparable general-purpose political subdivision of a State; and

(5) Notwithstanding the population requirements of sections 4723(a) and 4743(c) of this title, a "local government" and a "general local government" also mean the recognized governing body of an Indian tribe, band, pueblo, or other organized group or community, including any Alaska Native village, as defined in the Alaska Native Claims Settlement Act, which performs substantial governmental functions. The requirements of sections 4723(c) and 4743(d) of this title, relating to reviews by the Governor of a State, do not apply to grant applications from the governing body of an Indian tribe, although nothing in this Act is intended to discourage or prohibit voluntary communication and cooperation between Indian tribes and State and local governments.

(As amended Pub. L. 93–638, title I, § 105(d), Jan. 4, 1975, 88 Stat. 2208.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is classified to section 1601 et seq. of Title 43, Public Lands.

This Act, referred to in par. (5), is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code, see Short Title note set out under section 4701 of this title.

AMENDMENTS

1975—Par. (5). Pub. L. 93–638 added par. (5).

Chapter 63.—LEAD-BASED PAINT POISONING PREVENTION

SUBCHAPTER III.—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

Sec.

4822. Federal Housing Administration procedure requirements for elimination of hazards; housing coverage: existing housing; housing constructed before 1950; housing constructed during or after 1950, discretion of Secretary; federally owned property for residential habitation; other implementing procedures [New].

SUBCHAPTER V.—GENERAL PROVISIONS

4844. Eligibility of certain State agencies [New].

4845. National Childhood Lead Based Paint Poisoning Advisory Board [New].

(a) Establishment; functions; residential representation; compensation; reimbursement of expenses.

(b) Advisory boards for local programs; establishment; residential representation; parental majority; reimbursement of expenses.

4846. State laws superseded, and null and void [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 246 of this title.

SUBCHAPTER I.—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4843 of this title.

§ 4801. Development of local programs.

(a) Assistance of Secretary.

The Secretary of Health, Education, and Welfare (hereafter referred to in this subchapter as the "Secretary") is authorized to make grants to public agencies of units of general local government in any State and to private nonprofit organizations in any State for the purpose of assisting such units in developing and carrying out local programs to detect and treat incidents of lead-based paint poisoning.

(b) Limitation on amount of grant.

The amount of any such grant shall not exceed 90 per centum of the cost of developing and carrying out a local program, as approved by the Secretary, during a period of three years.

* * * * *

(e) Centralized laboratory facilities.

The Secretary is also authorized to make grants to State agencies for the purpose of establishing centralized laboratory facilities for analyzing biological and environmental lead specimens obtained from local lead based paint poisoning detection programs.

(f) Conditions of grants; provision of additional services or improvement in quality of services; Federal funds for supplementation and not for the supplanting of non-Federal funds.

No grant may be made under this section unless the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, and (B) Federal funds made

available under this section for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program described in this section, and will in no event supplant such State, local, and other non-Federal funds. (As amended Pub. L. 93–151, § 1, Nov. 9, 1973, 87 Stat. 565.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–151, § 1(a), substituted "public agencies of units of general local government in any State and to private nonprofit organizations in any State" for "units of general local government in any State".

Subsec. (b). Pub. L. 93–151, § 1(b), increased limitation from 75 to 90 per centum.

Subsec. (e) Pub. L. 93–151, § 1(c), added subsec. (e).

Subsec. (f). Pub. L. 93–151, § 1(d), added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4811, 4844 of this title.

SUBCHAPTER II.—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4843 of this title.

§ 4811. Development of local programs; assistance of Secretary; required provisions; consistency of assisted programs; employment opportunities for local residents; audit and examination of books, documents, papers, and records.

The Secretary of Health, Education, and Welfare is authorized to make grants to public agencies of units of general local government in any State and to private nonprofit organizations in any State for the purpose of assisting such units in developing and carrying out programs that identify those areas that present a high risk to the health of residents because of the presence of lead-based paints on interior surfaces, and then to develop and carry out programs to eliminate the hazards of lead-based paint poisoning.

(a) A local program should include:

* * * * *

(2) the development and carrying out of procedures to remove from exposure to young children all interior surfaces of residential housing, porches, and exterior surfaces of such housing to which children may be commonly exposed, in those areas that present a high risk for the health of residents because of the presence of lead based paints. Such programs should include those surfaces on which non-lead-based paints have been used to cover surface to which lead based paints were previously applied; and

* * * * *

(c) Any public agency, of a unit of local government or private nonprofit organization which receives assistance under this chapter shall make available to the Secretary and the Comptrolled General of the United States, or any of their duly authorized representatives, for purposes of audit and examination, any books, documents, papers, and records that are pertinent to the assistance received by such public agency of a unit of local government or private nonprofit organization under this chapter. (As amended Pub. L. 93–151, § 2, Nov. 9, 1973, 87 Stat. 565.)

AMENDMENTS

1973—Pub. L. 93–151, § 2(a), substituted in introductory text "public agencies of units of general local government in any State and to private nonprofit organizations in any State" for "units of general local government in any State".

Subsec. (a)(2). Pub. L. 93–151, § 2(b), incorporated existing provisions in rearranging the text, substituted provisions respecting development of procedures for provisions for development of comprehensive program, and provided for such development in areas of high risk to the residents' health.

Subsec. (c). Pub. L. 93–151, § 2(c), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4844 of this title.

SUBCHAPTER III.—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4843 of this title.

§ 4821. Development of program; consultation; nature of program; safe level of lead; report to Congress.

(a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

(b) The Chairman of the Consumer Product Safety Commission shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than December 31, 1974, the Chairman shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations. (As amended Pub. L. 93–151, § 3, Nov. 9, 1973, 87 Stat. 566.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–151 incorporated existing first sentence in provisions designated as subsec. (a).

Subsec. (b). Pub. L. 93–151 required the Chairman of the Consumer Product Safety Commission to conduct research to ascertain the safe level of lead in provisions designated as subsec. (b), incorporated existing second sentence as the second sentence of the subsection, substituting requirement of submission of report by the Chairman no later than Dec. 31, 1974, for former similar requirement for submission of a report by the Secretary within one year after Jan. 13, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4841 of this title.

§ 4822. Federal Housing Administration procedure requirements for elimination of hazards; housing coverage: existing housing; housing constructed before 1950; housing constructed during or after 1950, discretion of Secretary; federally owned property for residential habitation; other implementing procedures.

The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Such procedures shall apply to all such housing constructed prior to 1950 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed, and (2) assured notification to purchasers and tenants of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint. The Secretary may establish such other procedures as may be appropriate to carry out the purpoess of this section. Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation. (Pub. L. 91–695, title III, § 302, as added Pub. L. 93–151, § 4(a)(1), Nov. 9, 1973, 87 Stat. 566.)

EFFECTIVE DATE

Section 4(b) of Pub. L. 93–151 provided that: "The amendments made by subsection (a) of this section [enacting this section] become effective upon the expiration of ninety days following the date of enactment of this Act [Nov. 9, 1973]."

SUBCHAPTER IV.—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

§ 4831. Use of lead based paint in residential structures constructed or rehabilitated by Federal government or with Federal assistance and on certain manufactured toys and utensils; consultation.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, shall take such steps and impose such conditions as may be necessary or appropriate—

(1) to prohibit the use of lead based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form, after the date of enactment of this Act, and

(2) to prohibit the application of lead based paint to any toy, furniture, cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

(As amended Pub. L. 93–151, § 5, Nov. 9, 1973, 87 Stat. 566.)

REFERENCE IN TEXT

For determination of date of enactment of this Act, referred to in cls. (1) and (2), the original enactment of this chapter by Pub. L. 91–695 was on Jan. 13, 1971, and amendment of this chapter by Pub. L. 93–151 was on Nov. 9, 1973.

AMENDMENTS

1973—Pub. L. 93–151 provided for consultation of the Secretaries, incorporated existing text in provisions designated as cl. (1) and added cl. (2).

SUBCHAPTER V.—GENERAL PROVISIONS

§ 4841. Definitions.

As used in this chapter—

* * * * *

(3) the term "lead based paint" means—

(A) prior to December 31, 1974, any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied;

(B) after December 31, 1974, any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied, except that if prior to December 31, 1974, the Chairman of the Consumer Product Safety Commission, based on studies conducted in accordance with section 4821(b) of this title determines that another level of lead, not to exceed five-tenths of 1 per centum, is safe, then such other level shall be effective after December 31, 1974.

(As amended Pub. L. 93–151, § 6, Nov. 9, 1973, 87 Stat. 567.)

AMENDMENTS

1973—Subd. (3). Pub. L. 93–151 added subd. (3). Former subd. (3) defined "lead-based paint" to mean any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of liquid paints or in the dried film of paint already applied.

§ 4843. Authorization of appropriations.

(a) There is hereby authorized to be appropriated to carry out the provisions of subchapter I of this chapter not to exceed $3,330,000 for the fiscal year 1971, $6,660,000 for the fiscal year 1972, and $25,000,000 for each of the fiscal years 1974 and 1975.

(b) There is hereby authorized to be appropriated to carry out the provisions of subchapter II of this chapter not to exceed $5,000,000 for the fiscal year 1971, $10,000,000 for the fiscal year 1972, and $35,000,000 for each of the fiscal years 1974 and 1975.

(c) There is hereby authorized to be appropriated to carry out the provisions of subchapter III of this chapter not to exceed $1,670,000 for the fiscal year 1971, $3,340,000 for the fiscal year 1972, and $3,000,000 for each of the fiscal years 1974 and 1975.

(d) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year. (As amended Pub. L. 93–151, § 7 (a)–(d), Nov. 9, 1973, 87 Stat. 567.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–151, § 7(a), provided for appropriations authorization of $25,000,000 for fiscal years

1974 and 1975 for carrying out subchapter I provisions.

Subsec. (b). Pub. L. 93–151, § 7(b), provided for appropriations authorization of $35,000,000 for fiscal years 1974 and 1975 for carrying out subchapter II provisions.

Subsec. (c). Pub. L. 93–151, § 7(c), provided for appropriations authorization of $3,000,000 for fiscal years 1974 and 1975 for carrying out subchapter III provisions.

Subsec. (d). Pub. L. 93–151, § 7(d), substituted "amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year" for "amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972".

§ 4844. Eligibility of certain State agencies.

Notwithstanding any other provision of this chapter, grants authorized under sections 4801 and 4811 of this title may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose. (Pub. L. 91–695, title V, § 504, as added Pub. L. 93–151, § 7(e), Nov. 9, 1973, 87 Stat. 567.)

§ 4845. National Childhood Lead Based Paint Poisoning Advisory Board.

(a) Establishment; functions; residential representation; compensation; reimbursement of expenses.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, is authorized to establish a National Childhood Lead Based Paint Poisoning Advisory Board to advise the Secretary on policy relating to the administration of this chapter. Members of the Board shall include residents of communities and neighborhoods affected by lead based paint poisoning. Each member of the National Advisory Board who is not an officer of the Federal Government is authorized to receive an amount equal to the minimum daily rate prescribed for GS–18, under section 5332 of Title 5, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of the Board. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

(b) Advisory boards for local programs; establishment; residential representation; parental majority; reimbursement of expenses.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, shall promulgate regulations for establishment of an advisory board for each local program assisted under this chapter to assist in carrying out this program. Two-thirds of the board shall be residents of communities and neighborhoods affected by lead based paint poisoning. A majority of the board shall be appointed from among parents, who, when appointed, have at least one child under six years of age. Each member of a local advisory board shall only be reimbursed for necessary expenses incurred in the actual performance of his duties as a member of the board. (Pub. L. 91–695, title V, § 505, as added Pub. L. 93–151, § 7(e), Nov. 9, 1973, 87 Stat. 568.)

§ 4846. State laws superseded, and null and void.

It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this chapter or regulations issued pursuant to this chapter. Any law, regulation, or ordinance purporting to establish such different requirement, prohibition, or standard shall be null and void. (Pub. L. 91–695, title V, § 506, as added Pub. L. 93–151, § 7(e), Nov. 9, 1973, 87 Stat. 568.)

Chapter 64.—PUBLIC SERVICE EMPLOYMENT PROGRAMS [NEW]

§§ 4871 to 4883. Omitted.

CODIFICATION

The public service employment programs covered by this chapter and authorized pursuant to the Emergency Employment Act of 1971, Pub. L. 92–54, July 12, 1971, 85 Stat. 146, which enacted this chapter, are omitted since appropriations were not authorized after June 30, 1973. Similar public service employment programs are included in the Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, title II, §§ 201–211, Dec. 28, 1973, 87 Stat. 850–857, which is classified to section 841 et seq. of Title 29, Labor. The former and new sections are comparable according to the following table:

Former sections	*New sections*
Title 42	*Title 29*
4871	841
4872	843
4873	844
4874	802
4875	Omitted
4876	845
4877	846
4878	842
4879	843
4880	847
4881	848
4882	849
4883	981

Chapter 65.—NOISE CONTROL [NEW]

Sec.
4901. Congressional findings and statement of policy.
4902. Definitions.
4903. Federal programs.
(a) Furtherance of Congressional policy.
(b) Presidential authority to exempt activities or facilities from compliance requirements.
(c) Coordination of programs of Federal agencies; standards and regulations; status reports.
4904. Identification of major noise sources.
(a) Development and publication of criteria.
(b) Compilation and publication of reports on noise sources and control technology.
(c) Supplemental criteria and reports.
(d) Publication in Federal Register.
4905. Noise emission standards for products distributed in commerce.
(a) Proposed regulations.
(b) Authority to publish regulations not otherwise required.
(c) Contents of regulations; appropriate consideration of other standards; participation by interested persons; revision.
(d) Warranty by manufacturer of conformity of product with regulations; transfer of cost obligation from manufacturer to dealer prohibited.
(e) State and local regulations.
4906. Aircraft noise standards.
4907. Labeling.
(a) Regulations.
(b) Manner of notice; form; methods and units of measurement.
(c) State regulation of product labeling.

Sec.
4908. Imports.
4909. Prohibited acts.
4910. Enforcement.
(a) Criminal penalties.
(b) Separate violations.
(c) Actions to restrain violations.
(d) Orders issued to protect the public health and welfare; notice; opportunity for hearing.
(e) "Person" defined.
4911. Citizen suits.
(a) Authority to commence suits.
(b) Notice.
(c) Intervention.
(d) Litigation costs.
(e) Other common law or statutory rights of action.
(f) "Noise control requirement" defined.
4912. Records, reports, and information.
(a) Duties of manufacturers of products.
(b) Confidential information; disclosure.
(c) Violations and penalties.
4913. Research, technical assistance, and public information.
4914. Development of low-noise-emission products.
(a) Definitions.
(b) Certification of products; Low-Noise-Emission Product Advisory Committee.
(c) Federal procurement of low-noise-emission products.
(d) Product selection.
(e) Waiver of statutory price limitations.
(f) Tests of noise emissions from products purchased by Federal government.
(g) Authorization of appropriations.
(h) Promulgation of procedures.
4915. Judicial review.
(a) Petition for review.
(b) Additional evidence.
(c) Stay of agency action.
(d) Subpenas.
4916. Railroad noise emission standards.
(a) Regulations; standards; consultation with Secretary of Transportation.
(b) Regulations to insure compliance with noise emission standards.
(c) State and local standards and controls.
(d) Definitions.
4917. Motor carrier noise emission standards.
(a) Regulations; standards; consultation with Secretary of Transportation.
(b) Regulations to insure compliance with noise emission standards.
(c) State and local standards and controls.
(d) Definitions.
4918. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 228g.

§ 4901. Congressional findings and statement of policy.

(a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this chapter to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products. (Pub. L. 92–574, § 2, Oct. 27, 1972, 86 Stat. 1234.)

SHORT TITLE

Section 1 of Pub. L. 92–574 provided that: "This Act [which enacted this chapter, amended section 1431 of Title 49, and enacted provisions set out as notes under this section and section 1431 of Title 49] may be cited as the 'Noise Control Act of 1972'."

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4903 of this title.

§ 4902. Definitions.

For purposes of this chapter:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 4910(e) and 4911(a) of this title) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 1301 of Title 49; or

(B) (i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 4905 or 4907 of this title which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by,

any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of Title 5) and includes the United States Postal Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

(Pub. L. 92–574, § 3, Oct. 27, 1972, 86 Stat. 1234.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4903 of this title.

§ 4903. Federal programs.

(a) Furtherance of Congressional policy.

The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 4901(b) of this title.

(b) Presidential authority to exempt activities or facilities from compliance requirements.

Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise,

shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 4902(3)(b) of this title, may be granted from the requirements of sections 4905, 4916, and 4917 of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) Coordination of programs of Federal agencies; standards and regulations; status reports.

(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 1431 of Title 49 shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise. (Pub. L. 92–574, § 4, Oct. 27, 1972, 86 Stat. 1235.)

§ 4904. Identification of major noise sources.

(a) Development and publication of criteria.

(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of October 27, 1972, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of October 27, 1972, publish information on the levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) Compilation and publication of reports on noise sources and control technology.

The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after October 27, 1972.

(c) Supplemental criteria and reports.

The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Publication in Federal Register.

Any report (or revision thereof) under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public. (Pub. L. 92–574, § 5, Oct. 27, 1972, 86 Stat. 1236.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4905 of this title.

§ 4905. Noise emission standards for products distributed in commerce.

(a) Proposed regulations.

(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c) of this section, for each product—

(A) which is identified (or is part of a class identified) in any report published under section 4904(b)(1) of this title as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment.

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2) (A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after October 27, 1972, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 4904(b)(1) of this title on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 4904(b)(1) of this title after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c) of this section, for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after October 27, 1972, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 4904(b)(1) of this title identifying it (or a class of products of which it is a part) as a major source of noise.

(b) Authority to publish regulations not otherwise required.

The Administrator may publish proposed regulations, meeting the requirements of subsection (c) of this section, for any product for which he is not required by subsection (a) of this section to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c) of this section, for such product.

(c) Contents of regulations; appropriate consideration of other standards; participation by interested persons; revision.

(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 4904 of this title, is requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966, the Clean Air Act, and the Federal Water Pollution Control Act. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) of this section (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of Title 5.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d) Warranty by manufacturer of conformity of product with regulations; transfer of cost obligation from manufacturer to dealer prohibited.

(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 1857j of this title.

(e) State and local regulations.

(1) No State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 4916 and 4917 of this title, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products. (Pub. L. 92–574, § 6, Oct. 27, 1972, 86 Stat. 1237.)

REFERENCES IN TEXT

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (c)(1), is classified to section 1381 et seq. of Title 15, Commerce and Trade.

The Clean Air Act, referred to in subsec. (c)(1), is classified to section 1857 et seq. of this title.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is classified to section 1251 et seq. of Title 33, Navigation and Navigable Waters.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4903, 4907, 4909, 4912, 4914–4917 of this title; title 15 section 2002.

§ 4906. Aircraft noise standards.

The Administrator, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (1) adequacy of Federal Aviation Administration flight and operational noise controls; (2) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (3) implications of identifying and achieving levels of cumulative noise exposure around airports; and (4) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within nine months after October 27, 1972. (Pub. L. 92–574, § 7(a), Oct. 27, 1972, 86 Stat. 1239.)

CODIFICATION

Section consists of subsec. (a) of section 7 of Pub. L. 92–574. Subsecs. (b) and (c) of section 7 of Pub. L. 92–574 are classified to section 1431 and 1431 note of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1431.

§ 4907. Labeling.

(a) Regulations.

The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) Manner of notice; form; methods and units of measurement.

For each product (or class thereof) designated under subsection (a) of this section the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 4905(c)(2) of this title

shall apply to the prescribing of any regulation under this section.

(c) State regulation of product labeling.

This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section. (Pub. L. 92–574, § 8, Oct. 27, 1972, 86 Stat. 1241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4909, 4912, 4915 of this title.

§ 4908. Imports.

The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this chapter with respect to new products imported or offered for importation. (Pub. L. 92–574, § 9, Oct. 27, 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4909 of this title.

§ 4909. Prohibited acts.

(a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4905 of this title which is applicable to such product, except in conformity with such regulation.

(2) (A) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 4905 of this title, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4907(b) of this title (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 4907(b) of this title, prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 4908 of this title which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 4910(d) or 4912(a) of this title or regulations prescribed under section 4912(a), 4916, or 4917 of this title.

(b) (1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section, upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State. (Pub. L. 92–574, § 10, Oct. 27, 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4910, 4911, 4916, 4917 of this title.

§ 4910. Enforcement.

(a) Criminal penalties.

Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(b) Separate violations.

For the purpose of this section, each day of violation of any paragraph of section 4909(a) of this title shall constitute a separate violation of that section.

(c) Actions to restrain violations.

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

(d) Orders issued to protect the public health and welfare; notice; opportunity for hearing.

(1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of Title 5.

(e) "Person" defined.

The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States. (Pub. L. 92–574, § 11, Oct. 27. 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4909, 4916, 4917 of this title.

§ 4911. Citizen suits.

(a) Authority to commence suits.

Except as provided in subsection (b) of this section, any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental

instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e) of this section), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this chapter which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 1431 of Title 49 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) Notice.

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 1431 of Title 49) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) Intervention.

In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 1431 of Title 49, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Litigation costs.

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Other common law or statutory rights of action.

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) "Noise control requirement" defined.

For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 4909(a) of this title, or a standard, rule, or regulation issued under section 4916 or 4917 of this title or under section 1431 of Title 49. (Pub. L. 92–574, § 12, Oct. 27, 1972, 86 Stat. 1243.)

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 4902, 4916, 4917 of this title.

§ 4912. Records, reports, and information.

(a) Duties of manufacturers of products.

Each manufacturer of a product to which regulations under section 4905 or 4907 of this title apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this chapter,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b) Confidential information; disclosure.

(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of Title 18, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this chapter.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Violations and penalties.

Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. (Pub. L. 92–574, § 13, Oct. 27, 1972, 86 Stat. 1244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4909 of this title.

§ 4913. Research, technical assistance, and public information.

In furtherance of his responsibilities under this chapter and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

(Pub. L. 92–574, § 14, Oct. 27, 1972, 86 Stat. 1244.)

§ 4914. Development of low-noise-emission products.

(a) Definitions.

For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 4905 of this title at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) Certification of products; Low-Noise-Emission Product Advisory Committee.

(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and reprcsentatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c) Federal procurement of low-noise-emission products.

(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) Product selection.

The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) Waiver of statutory price limitations.

For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) Tests of noise emissions from products purchased by Federal government.

The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal government. If at any time he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) Authorization of appropriations.

There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

(h) Promulgation of procedures.

The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after October 27, 1972. (Pub. L. 92–574, § 15, Oct. 27, 1972, 86 Stat. 1245.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(3), is set out under section 5332 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4918 of this title.

§ 4915. Judicial review.

(a) Petition for review.

A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under sections 4905, 4916, or 4917 of this title or any labeling regulation under section 4907 of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 1431 of Title 49 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) Additional evidence.

If a party seeking review under this chapter applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) Stay of agency action.

With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) Subpenas.

For the purpose of obtaining information to carry out this chapter, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the

Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. (Pub. L. 92–574, § 16, Oct. 27, 1972, 86 Stat. 1247.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4916, 4917 of this title.

§ 4916. Railroad noise emission standards.

(a) Regulations; standards; consultation with Secretary of Transportation.

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards.

The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) State and local standards and controls.

(1) Subject to paragraph (2) but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) Definitions.

The terms "carrier" and "railroad" as used in this section shall have the same meaning as such terms have under section 22 of Title 45. (Pub. L. 92–574, § 17, Oct. 27, 1972, 86 Stat. 1248.)

REFERENCES IN TEXT

The Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act, referred to in subsec. (b), are classified, respectively, to section 1 et seq. of Title 45 and sections 1 et seq. and 1651 et seq. of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4903, 4905, 4909, 4911, 4915 of this title.

§ 4917. Motor carrier noise emission standards.

(a) Regulations; standards; consultation with Secretary of Transportation.

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of

the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards.

The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) State and local standards and controls.

(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political sudivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) Definitions.

For purposes of this section, the term "motor carrier" includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined by paragraphs (14), (15), and (17) of section 303(a) of Title 49. (Pub. L. 92–574, § 18. Oct. 27, 1972, 86 Stat. 1249.)

REFERENCES IN TEXT

The Interstate Commerce Act and the Department of Transportation Act, referred to in subsec. (b), are classified, respectively, to sections 1 et seq. and 1651 et seq. of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4903, 4905, 4909, 4911, 4915 of this title.

§ 4918. Authorization of appropriations.

There is authorized to be appropriated to carry out this chapter (other than section 4914 of this title) $3,000,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; the $12,000,000 for the fiscal year ending June 30, 1975. (Pub. L. 92–574, § 19, Oct. 27, 1972, 86 Stat. 1250.)

Chapter 66.—DOMESTIC VOLUNTEER SERVICES [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6063 of this title.

SUBCHAPTER I.—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5081 of this title.

PART A.—VOLUNTEERS IN SERVICE TO AMERICA

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4972, 4992, 5041, 5042, 5055, 5081 of this title.

§ 4951. Congressional statement of purpose.

This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. (Pub. L. 93–113, title I, § 101, Oct. 1, 1973, 87 Stat. 396.)

SHORT TITLE

Section 1 of Pub. L. 93–113 provided: "That this Act [which enacted this chapter, amended section 3067 of this title and section 8332(b)(7) of Title 5, and repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title], may be cited as the 'Domestic Volunteer Service Act of 1973'."

§ 4952. Authority to operate Vista program.

The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part. (Pub. L. 93–113, title I, § 102, Oct. 1, 1973, 87 Stat. 396.)

§ 4953. Assignment of volunteers.

(a) Programs or projects for Indians, migratory and seasonal farmworkers and their families, residents of certain areas, mentally ill, developmentally disabled, and other handicapped individuals, and persons eligible for assistance under this chapter or for economic opportunity assistance.

The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this chapter or the Economic Opportunity Act of 1964, as amended (chapter 34 of this title) in furtherance of the purpose of this subchapter.

(b) Home community services of teams of low-income community volunteers and nationally recruited specialist volunteers; individual plans for low-income community volunteers; updating and review of individual plans.

The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Terms and conditions; restrictions on political activities; place of service.

Except as provided in subsection (d) of this section, the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Program submittal to Governor; commencement and termination of service.

Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director. (Pub. L. 93–113, title I, § 103, Oct. 1, 1973, 87 Stat. 396.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4972, 4974 of this title.

§ 4954. Terms and periods of service.

(a) Personal commitment; scope of commitment.

Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Minimum period of service; critical scarce-skill needs exception; reenrollment; limitation.

Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.

(c) Oath or affirmation.

Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 2504(j) of Title 22, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) Grievance and personal view presentation procedure; notice and hearing; information.

The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on October 1, 1973, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service. (Pub. L. 93–113, title I, § 104, Oct. 1, 1973, 87 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4972, 4973 of this title.

§ 4955. Support services.

(a) Stipend; limitation; volunteer leaders; payment upon completion of term; advancement of accrued stipend; beneficiary of deceased volunteer.

(1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed $75 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of Title 5.

(b) Description of allowances and support services.

The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned. (Pub. L. 93–113, title I, § 105, Oct. 1, 1973, 87 Stat. 398, amended Pub. L. 94–130, § 5(a), Nov. 14, 1975, 89 Stat. 684.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–130 substituted $75 for $50 in the second sentence preceding exception clause.

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Section 5(b) of Pub. L. 94–130 provided that: "There are authorized to be appropriated, in addition to the sums authorized to be appropriated pursuant to section 501 of such Act [section 5081 of this title], such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section [to subsec. (a)(1) of this section]. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts."

§ 4956. Participation of program beneficiaries.

To the maximum extent practicable, the people of the communities to be served by volunteers under this subchapter shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries. (Pub. L. 93–113, title I, § 106, Oct. 1, 1973, 87 Stat. 398.)

§ 4957. Participation of older persons.

In carrying out this part and part C of this subchapter, the Director shall take necessary steps,

including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need. (Pub. L. 93–113, title I, § 107, Oct. 1, 1973, 87 Stat. 399.)

Part B.—Service-Learning Programs

Part Referred to in Other Sections

This part is referred to in sections 5041, 5055 of this title.

§ 4971. Congressional statement of purpose.

This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service—learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems. (Pub. L. 93–113, title I, § 111, Oct. 1, 1973, 87 Stat. 399.)

§ 4972. Authority to operate University Year for ACTION program; institutional benefits affecting stipend for volunteers.

Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this subchapter, except for the provisions of sections 4953(d) and 4954(d) of this title, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition). (Pub. L. 93–113, title I, § 112, Oct. 1, 1973, 87 Stat. 399.)

Section Referred to in Other Sections

This section is referred to in section 4973 of this title.

§ 4973. Special conditions.

(a) Academic credit.

Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 4954 of this title, and may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

(b) Participation of student volunteers and educational institutions.

Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) Financial assistance limitation; commitment stipulations; monitoring of compliance with commitment; compliance information to Secretary.

(1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this chapter to programs carried out pursuant to section 4972 of this title shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (sections 2991–2994d of this title). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part: (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance. (Pub. L. 93–113, title I, § 113, Oct. 1, 1973, 87 Stat. 399.)

Reference in Text

Title VII of the Economic Opportunity Act of 1964, as amended, referred to in subsec. (c)(1), was repealed by section 603 of Pub. L. 93–113, was formerly classified to sections 2991, 2992, to 2992b, 2993 to 2993b, and 2994 to 2994d of this title, and is now covered by this chapter.

For specific successor sections to the repealed provisions, see Distribution Table set out under such former sections.

§ 4974. Special service-learning programs.

(a) Financial assistance limitation for programs and projects described in section 4953 (a) and (c) of this title.

Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provisions of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignment of a character and on such terms and conditions as described in subsections (a) and (c) of section 4953 of this title.

(b) Federal employee status prohibition.

Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Living and other support or allowances.

The Director may provide volunteers serving under this section a living allowance and only such other support or allowances as he determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program. (Pub. L. 93–113, title I, § 114, Oct. 1, 1973, 87 Stat. 400.)

PART C.—SPECIAL VOLUNTEER PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4957, 5055 of this title.

§ 4991. Congressional statement of purpose.

This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs. (Pub. L. 93–113, title I, § 121, Oct. 1, 1973, 87 Stat. 400.)

§ 4992. Authority to establish and operate special volunteer programs or demonstration programs.

(a) Youthful offender incarceration alternatives; veterans educational opportunities; drug abusers counseling; periods of service; identification of segments of poverty community which could benefit from volunteer and other antipoverty efforts.

The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders; a program to promote educational opportunities for veterans; and a program to provide community-based peer group outreach and counseling for drug abusers) designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts.

(b) Assignment of volunteers; terms and conditions.

Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) Allowances and stipends; extent and amount.

The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this subchapter, as he determines are necessary to carry out the purpose of this part. (Pub. L. 93–113, title I, § 122, Oct. 1, 1973, 87 Stat. 401.)

SUBCHAPTER II.—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5041, 5058, 5061 of this title.

PART A.—RETIRED SENIOR VOLUNTEER PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5082 of this title.

§ 5001. Grants and contracts for volunteer service projects.

(a) Approval of programs; rules and regulations.

In order to help retired persons to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 3024(a)(1) of this title) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating

volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons.

(b) Proportion of required local contribution; exceptions.

In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, 30 per centum in the third such year, 40 per centum in the fourth such year, and 50 per centum in any subsequent such years: *Provided, however,* That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

(c) Conditions upon award of grant or contract.

The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 3024(a)(1) of this title, such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon. (Pub. L. 93–113, title II, § 201, Oct. 1, 1973, 87 Stat. 401, amended Pub. L. 93–351, § 4, July 10, 1974, 88 Stat. 357.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–351 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93–351 redesignated former subsec. (b) as (c).

AGING RESOURCE SPECIALISTS FOR COORDINATION OF NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS WITH STATE AND COMMUNITY PROGRAMS ON AGING AND NUTRITION PROGRAMS FOR ELDERLY; DESIGNATION; DUTIES; DEFINITIONS

Pub. L. 94–135, title II, § 205(c), Nov. 28, 1975, 89 Stat. 727, provided that:

"(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and national older American volunteer programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) [this subchapter], in order to enhance the effectiveness of the support provided to such national older American volunteer programs by the ACTION Agency, the Director of the ACTION Agency shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973 [this subchapter].

"(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the ACTION Agency.

"(B) The primary responsibility of each aging resource specialist shall be—

"(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 [this subchapter] in any State or other jurisdiction served by the State office involved; and

"(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 [sections 3021 et seq. and 3045 et seq. of this title] in any such State or other jurisdiction.

"(3) For purposes of this subsection—

"(A) the term 'ACTION Agency' means the ACTION Agency established by section 401 of the Act (42 U.S.C. 5041);

"(B) the term 'primary responsibility' means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

"(C) the term 'State' means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

PART B.—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5082 of this title.

§ 5011. Grants and contracts for individual service projects.

(a) Foster grandparent projects; amount.

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by individuals serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 3044b (a) of this title or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) Services as senior health aides and senior companions.

The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by individuals serving as "senior health aides" to work with persons receiving home health care, nursing care, or meals on wheels or

other nutritional services, and as "senior companions" to persons having developmental disabilities or other special needs for companionship. (Pub. L. 93–113, title II, § 211, Oct. 1, 1973, 87 Stat. 402, amended Pub. L. 94–135, title II, § 205(b) (1), (2), Nov. 28, 1975, 89 Stat. 727.)

REFERENCES IN TEXT

Section 3044b of this title, referred to in subsec. (a), related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers, was repealed by section 604(a) of Pub. L. 93–113, and is now covered by this section and sections 5022 and 5058 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135, § 205(b)(1) (A), (B), substituted "individuals" for "volunteers" where appearing the first and third places and struck out "serve as volunteers to" preceding "provide supportive person-to-person services".

Subsec. (b). Pub. L. 94–135, § 205(b)(2), substituted "individuals" for "volunteers".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5082 of this title.

§ 5012. Conditions of grants and contracts; "community action agency" defined.

(a)(1) In carrying out this part, the Director shall insure that individuals receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 3024(a)(1) of this title is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 3024(a)(1) of this title, such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (sections 2781–2837 of this title). (Pub. L. 93–113, title II, § 212, Oct. 1, 1973, 87 Stat. 402, amended Pub. L. 94–135, title II, § 205(b)(3), Nov. 28, 1975, 89 Stat. 727.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–135 substituted "individuals" for "volunteers".

PART C.—GENERAL PROVISIONS

§ 5021. Coordination with other Federal programs.

In carrying out this subchapter, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this subchapter with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this subchapter and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this subchapter. (Pub. L. 93–113, title II, § 221, Oct. 1, 1973, 87 Stat. 403.)

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 5022. Payments; adjustments; advances or reimbursement; installments; conditions.

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine. (Pub. L. 93–113, title II, § 222, Oct. 1, 1973, 87 Stat. 403.)

§ 5023. Minority group participation.

The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this subchapter. (Pub. L. 93–113, title II, § 223, Oct. 1, 1973, 87 Stat. 404.)

SUBCHAPTER III.—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5058, 5083 of this title.

§ 5031. Congressional statement of purpose.

This subchapter provides for programs in which persons with business experience volunteer to assist persons, especially those who are economically disadvantaged, engaged in, or who seek to engage in, small business enterprises, and to make available their expertise as volunteers in programs authorized by, or of a character eligible for assistance under, this chapter, the Economic Opportunity Act of 1964, as amended (chapter 34 of this title) (particularly subchapter VII thereof), or the Small Business Act (chapter 14A of Title 15). The purpose of this title is to utilize the skills and expertise of persons with business experience to assist persons in, or seeking to enter, business enterprises, or to carry out management and financial counseling activities in furtherance of the purposes of this chapter. (Pub. L. 93–113, title III, § 301, Oct. 1, 1973, 87 Stat. 404.)

TRANSFER OF SCORE AND ACE PROGRAMS

Transfer of functions, powers, and duties vested in ACTION Agency or its Director under this subchapter relating to SCORE and ACE Programs to Small Business Administration, see Ex. Ord. No. 11871, July 18, 1975, 40 F.R. 30915, set out as a note under section 641 of Title 15, Commerce and Trade.

§ 5032. Authority to establish, coordinate, and operate programs.

(a) Volunteer program inclusion of Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE); direction of Administrator of financial or management counseling assistance from Small Business Administration.

The Director is authorized to establish and conduct, and to recruit, select, and train volunteers for (and to make grants or enter into contracts therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE) and programs in which SCORE and ACE volunteers expand the application of their expertise beyond Small Business Administration clients, to carry out the purpose of this subchapter: *Provided, however,* That the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving, financial or management counseling assistance from the Small Business Administration shall be performed under the direction of the Administrator of the Small Business Administration (hereinafter referred to in this subchapter as the "Administrator") pursuant to section 637(b)(1) of Title 15.

(b) Assignment of volunteers; terms and conditions.

The assignment of volunteers engaged in programs under this subchapter shall be on such terms and conditions as the Director may determine, except that he shall prescribe such terms and conditions in agreement with the Administrator with respect to the service of volunteers described in the proviso in subsection (a) of this section.

(c) Federal employee status for purpose of Federal tort claims; expenses, reimbursement; travel expenses; Small Business Administration loan applicants service prohibition.

(1) Such volunteers, while carrying out activities under this subchapter and section 637(b)(1), of Title 15, shall be deemed Federal employees for the purpose of the Federal tort claims provisions in Title 28.

(2) The Director is authorized to reimburse such volunteers only for such necessary out-of-pocket expenses incident to their provision of services under this chapter as he shall determine, in accordance with regulations which he shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of Title 5 for individuals serving without pay.

(3) Such volunteers shall in no way (A) participate for the benefit of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administration, or (B) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

(d) Cooperation of Small Business Administration and ACTION Agency in making office facilities and supplies available.

The Director and the Administrator shall cooperate in order to make available to such volunteers, or groups thereof, such use of the office facilities and related supplies, materials, and services of the Small Business Administration and the ACTION Agency as they deem appropriate to assist such volunteers to carry out such activities, including authorized meetings of groups of volunteers.

(e) Preferred application of subchapter provisions.

Except as otherwise provided in this chapter, activities authorized to be carried out both by this subchapter and by section 637(b)(1) of Title 15 shall be carried out under this subchapter to the maximum extent feasible. (Pub. L. 93–113, title III, § 302, Oct. 1, 1973, 87 Stat. 404.)

REFERENCES IN TEXT

Federal tort claims provisions in Title 28, referred to in subsec. (c)(1), are classified to sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER IV.—ADMINISTRATION AND COORDINATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5084 of this title.

§ 5041. ACTION Agency; establishment; officials of ACTION Agency: Director, Deputy Director, Associate Director and Deputy Associate Directors for Domestic and Anti-Poverty Operations; Associate Director for International Operations, and Assistant Directors; appointment, compensation, and functions.

There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the Presi-

dent, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of Title 5. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of Title 5. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of Title 5. One such Associate Director shall be designed "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this chapter, and the other such Associate Director shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (section 2501 et seq. of Title 22). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of Title 5. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of subchapter I of this chapter and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under subchapter II of this chapter, each of whom shall be appointed by the Director. (Pub. L. 93–113, title IV, § 401, Oct. 1, 1973, 87 Stat. 405.)

SUPERSEDENCE OF 1971 REORG. PLAN NO. 1

Section 601 of Pub. L. 93–113 provided that:

"(a) [*Superseded provisions*] Sections 1, 2(a), 3, and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

"(b) [*Transfer of functions; personnel, property, records, and unexpended funds*] The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401 [this section]. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act [this chapter] so that there is no disruption of ongoing activities for which there is continuing authority.

"(c) [*Continuing effectiveness of official actions and continuation of volunteer services*] All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act [Oct. 1, 1973] and for which there is continuing authority under the provisions of this Act [this chapter], and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, [Oct. 1, 1973], shall continue in full force and effect until modified, superseded, or revoked by the Director.

"(d) [*References to ACTION or Director of ACTION*] All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act [Oct. 1, 1973], be deemed to refer to the ACTION Agency established by section 401 [this section] and the Director thereof.

"(e) [*Abatement of actions or proceedings*] No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act [this chapter].

"(f) [*Continuation of prior appointments*] Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advise and consent by the Senate."

TRANSFER OF SCORE AND ACE PROGRAMS

Transfer of functions, powers, and duties vested in ACTION Agency or its Director under this subchapter relating to SCORE and ACE Programs to Small Business Administration, see Ex. Ord. No. 11871, July 18, 1975, 40 F.R. 30915, set out as a note under section 641 of Title 15, Commerce and Trade.

§ 5042. Authority of Director.

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized to—

(1) Appointment and compensation of personnel.

appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein. fix the compensation of such personnel in accordance with chapter 51 of Title 5;

(2) Employment and compensation of experts and consultants.

(A) employ experts and consultants or organizations thereof as authorized by section 3109 of Title 5, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such Title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such Title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) Reimbursement of other Federal agencies for performance of provisions; delegation of functions.

with the approval of the President, arrange with and reimburse the heads of other Federal

agencies for the performance of any of the provisions of this chapter and, as necessary or appropriate, delegate any of his functions under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) Utilization of services and facilities of Federal and State agencies.

with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) Acceptance of gifts, devises, and bequests.

accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this chapter, or of any subchapter thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) Acceptance of voluntary and uncompensated services.

accept voluntary and uncompensated services;

(7) Allocation and expenditure of funds; transfer of funds to other Federal agencies.

allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this chapter as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of Title 10), expenditure for construction, repairs, and capital improvements;

(8) Dissemination of data and information.

disseminate, without regard to the provisions of section 3204 of Title 39, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) Seal.

adopt an official seal, which shall be judicially noticed;

(10) Collection or compromise of obligations.

collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (sections 951–53 of Title 31);

(11) Expenditures for printing and binding, rent, and repairs, alterations, and improvement of buildings.

expend funds made available for purposes of this chapter as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this chapter, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) Grants or contracts for assignment or referral of volunteers; payment of program costs.

notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this chapter (except for volunteers serving under part A of subchapter I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) Educational and vocational counseling.

provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this chapter to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) Specific necessary or appropriate functions.

establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this chapter, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this chapter; and

(15) Other necessary or appropriate functions.

generally perform such functions and take such steps, consistent with the purposes and provisions of this chapter, as he deems necessary or appropriate to carry out the provisions of this chapter.

(Pub. L. 93–113, title IV, § 402, Oct. 1, 1973, 87 Stat. 406.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5044, 5045 of this title.

§ 5043. Political activities.

(a) Funds use prohibition; "election" and "Federal office" defined.

No part of any funds appropriated to carry out this chapter, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 431(a) of Title 2, and the term "Federal office" has the same meaning given such term by section 431(c) of Title 2.

(b) Program identification prohibition; enforcement: rules and regulations; emergencies.

Programs assisted under this chapter shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis. (Pub. L. 93–113, title IV, § 403, Oct. 1, 1973, 87 Stat. 408.)

§ 5044. Special limitations.

(a) Volunteer activities; limitation.

The Director shall prescribe regulations and shall carry out the provisions of this chapter so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this chapter is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) Support costs.

All support, including transportation provided to volunteers under this chapter, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) Compensation of supervising agencies or organizations.

No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) Labor or antilabor organization activities; funds use prohibition.

No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Selection procedure.

Persons serving as volunteers under this chapter shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this chapter. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this chapter who wish to become volunteers as he determines will further the purposes of this chapter.

(f) Delegation of functions; compensation: conversion requirement; Peace Corps exceptions.

Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this chapter only to persons appointed or employed pursuant to clauses (1) and (2) of section 5042 of this title, and persons assigned or delegated such substantial responsibilities on October 1, 1973, and who are receiving compensation in accordance with provisions of law other than the applicable provisions of Title 5 on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (section 2501 et seq. of Title 22) within six months after October 1, 1973.

(g) Government assistance; eligibility.

Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this chapter shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program. (Pub. L. 93–113, title IV, § 404, Oct. 1, 1973, 87 Stat. 408.)

§ 5045. National Voluntary Service Advisory Council.

(a) Establishment; membership; appointment and term; representation of interests; temporary and permanent chairperson; initial and annual meetings; compensation and travel expenses; ex officio membership.

There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than twenty-five members appointed, not later than ninety days after October 1, 1973, by and serving at the pleasure of the President. Such

members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this chapter and the Peace Corps Act (section 2501 et seq. of Title 22). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council shall receive compensation and travel expenses as provided in section 5042(2) of this title with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) Functions of Council.

The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this chapter and the Peace Corps Act (section 2501 et seq. of Title 22); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this chapter and the Peace Corps Act and make recommendations (including such proposals for changes in this chapter and such Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of this chapter and such Act.

(c) Report to President for transmittal to Congress.

Not later than January 1 of each calendar year beginning with the calendar year 1975, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President to the Congress together with his comments and recommendations. (Pub. L. 93–113, title IV, § 405, Oct. 1, 1973, 87 Stat. 409.)

§ 5046. Labor standards for federally assisted projects, buildings, and works.

All laborer and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 and in section 276c of Title 40. (Pub. L. 93–113, title IV, § 406, Oct. 1, 1973, 87 Stat. 410.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in the text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in the text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5047. Report to President for transmittal to Congress.

Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President to the Congress a full and complete report on the activities of the ACTION Agency during such year. (Pub. L. 93–113, title IV, § 407, Oct. 1, 1973, 87 Stat. 410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5056 of this title.

§ 5048. Joint funding; single non-Federal share requirement; grant or contract requirement waiver.

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements under or pursuant to this chapter. (Pub. L. L. 93–113, title IV, § 408, Oct. 1, 1973, 87 Stat. 410.)

DELEGATION OF FUNCTIONS

Functions of the President to issue regulations relating to joint funding under this section delegated to the Administrator of General Servcices, see Ex. Ord. No. 11784, May 30, 1974, 39 F.R. 19443, set out as a note under section 301 of Title 3, The President.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget see section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 5049. Prohibition of Federal control of educational institution or school system.

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system. (Pub. L. 93–113, title IV, § 409, Oct. 1, 1973, 87 Stat. 410.)

§ 5050. Coordination with other programs.

The Director shall take necessary steps to coordinate volunteer programs authorized under this chapter with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsibility for programs related to the purposes of this chapter with a view to encouraging

greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this chapter. (Pub. L. 93–113, title IV, § 410, Oct. 1, 1973, 87 Stat. 410.)

§ 5051. Performance of functions by existing departments or offices rather than new departments or offices.

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office. (Pub. L. 93–113, title IV, § 411, Oct. 1, 1973, 87 Stat. 411.)

§ 5052. Suspension and termination of financial assistance; procedures; notice and hearing; emergency situations; refunding applications.

The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this chapter, whenever he determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this chapter be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 93–113, title IV, § 412, Oct. 1, 1973, 87 Stat. 411.)

§ 5053. Duration of program; authorization of appropriations.

The Director shall carry out the programs provided for in this chapter during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 93–113, title IV, § 413, Oct. 1, 1973, 87 Stat. 411.)

§ 5054. Distribution of benefits between rural and urban areas.

The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this chapter will be distributed equitably between residents of rural and urban areas. (Pub. L. 93–113, title IV, § 414, Oct. 1, 1973, 87 Stat. 411.)

§ 5055. Application of Federal law.

(a) General rule.

Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this chapter shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Specific Federal legislation.

Individuals enrolled in programs under subchapter I of this chapter for periods for service of at least one year shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of Title 5, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (section 1 et seq. of Title 26) and title II of the Social Security Act (section 401 et seq. of this title), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of Title 28, be deemed employees of the United States, and (4) for the purposes of subchapter I of chapter 81 of Title 5 (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of Title 5, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee, and subsection (a) and (b) of section 8113 of Title 5 shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated.

(c) Subsequent government employment.

Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of subchapter I of this chapter, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of subchapter I of this chapter, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 1092(a)(1) of Title 22 and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Same; competitive service.

Volunteers serving in programs for periods of service of at least one year under part A of subchapter I of this chapter, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (sections 2991–2994d of this title), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) References in other laws to service under provisions relating to Volunteers in Service to America deemed references to service under subchapter I of this chapter.

Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of subchapter I of this chapter. (Pub. L. 93–113, title IV, § 415, Oct. 1, 1973, 87 Stat. 411.)

REFERENCES IN TEXT

Federal Tort Claims provisions of Title 28, referred to in subsec. (b)(3), are classified to sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

Entrance salary for a grade GS–7 employee, referred to in subsec. (b)(4), is set out in the General Schedule in section 5332 of Title 5, Government Organization and Employees.

Foreign Service Act of 1946, referred to in subsec. (c)(2), is classified to chapter 14 of Title 22, Foreign Relations and Intercourse.

Title VIII of the Economic Opportunity Act of 1964, as amended, referred to in subsecs. (d) and (e), was repealed by section 603 of Pub. L. 93–113, was formerly classified to sections 2991, 2992 to 2992b, 2993 to 2993b, and 2994 to 2994d of this title, and is now covered by this chapter. For specific successor sections to the repealed provisions, see Distribution Table set-out under such former sections.

Executive Order Number 11103 (April 10, 1963), referred to in subsec. (d), is set out under section 2504 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 11561. DELEGATION OF AUTHORITY

Ex. Ord. No. 11561, Sept. 25, 1970, 35 F.R. 14981, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, the authority conferred upon the President by that portion of section 833(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b(c)(2)) [former section 2994b(c)(2) of this title, now subsec. (c)(2) of this section] which reads "except as otherwise determined by the President" is hereby delegated as follows: (1) To the Civil Service Commission to the extent that such authority is with respect to the laws administered by the Commission, and (2) to the Secretary of State to the extent that such authority is with respect to the Foreign Service Act of 1946, as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse].

§ 5056. Evaluation of programs and projects.

(a) General objectives; persons conducting the evaluation.

The Director shall periodically measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) General standards; publication; reports of ensuing actions.

The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. Reports submitted pursuant to section 5047 of this title shall describe the actions taken as a result of evaluations carried out under this section.

(c) Opinions of participants.

In carrying out evaluations under this subchapter, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) Summaries of results; publication.

The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) Federal property.

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Funds limitation; reduction of allotments.

The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this chapter, to conduct program and project evaluations (directly, or by grants or contracts) as required by this chapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly. (Pub. L. 93–113, title IV, § 416, Oct. 1, 1973, 87 Stat. 412.)

§ 5057. Nondiscrimination.

(a) The Director shall not provide financial assistance for any program under this chapter unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this chapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d–1 of this title. Section 2000d–2 of this title shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity

receiving assistance under this chapter. (Pub. L. 93–113, title IV, § 417, Oct. 1, 1973, 87 Stat. 413.)

§ 5058. Eligibility for other benefits.

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to subchapters II and III of this chapter shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after October 1, 1973. (Pub. L. 93–113, title IV, § 418, Oct. 1, 1973, 87 Stat. 413.)

§ 5059. Legal expenses.

Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this chapter or section 637(b)(1) of Title 15 serving under this chapter have been made parties. (Pub. L. 93–113, title IV, § 419, Oct. 1, 1973, 87 Stat. 413.)

§ 5060. Rules, regulations, guidelines, instructions, and application forms; publication in Federal Register.

All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this chapter shall be published in the Federal Register at least thirty days prior to their effective date (Pub. L. 93–113, title IV, § 420, Oct. 1, 1973, 87 Stat. 414.)

§ 5061. Definitions.

For the purposes of this chapter—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and America Samoa and, for the purposes of subchapter II of this chapter, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 2971d of this title: *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

(Pub. L. 93–113, title IV, § 421, Oct. 1, 1973, 87 Stat. 414.)

§ 5062. Audit.

(a) Recordkeeping.

Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this chapter other than by formal advertising, and which are otherwise authorized by this chapter, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to books, documents, papers, and records; limitations.

The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a) of this section. (Pub. L. 93–113, title IV, § 422, Oct. 1, 1973, 87 Stat. 414.)

SUBCHAPTER V.—AUTHORIZATION OF APPROPRIATIONS

§ 5081. National Volunteer Antipoverty Programs.

(a) There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out subchapter I of this chapter. In each such year, of the sums appropriated pursuant to this subchapter not less than $29,600,000 shall be expended on programs designed to eliminate poverty and poverty-related human, social, and environmental problems. Of this amount not less than $22,300,000 shall be expended on programs authorized under part A of subchapter I of this chapter in each such fiscal year.

(b) Any sums authorized to be appropriated for subchapter I of this chapter in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for Part A of such subchapter. (Pub. L. 93–113, title V, § 501, Oct. 1, 1973, 87 Stat. 415.)

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Additional appropriations authorization for meeting increase in stipend to volunteers under section 4955(a)(1) of this title, see section 5(b) of Pub. L. 94–130, set out as a note under section 4955 of this title.

§ 5082. National Older Americans Volunteer Programs.

(a) There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1974, $20,0000,000 each for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, respectively, $6,000,000 for the period beginning

July 1, 1976, and ending September 30, 1976, and $22,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, to be used for the purpose of carrying out programs under part A of subchapter II of this chapter.

(b)(1) There are authorized to be appropriated $32,500,000 for the fiscal year ending June 30, 1974, $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $10,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $43,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, for the purpose of carrying out programs under part B of such subchapter of which (A) $26,500,000 for the fiscal year ending June 30, 1974, $32,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $8,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $35,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (a) of section 5011 of this title, and (B) $6,000,000 for the fiscal year ending June 30, 1974, $8,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 5011 of this title equal $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 5011 of this title equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

(Pub. L. 93–113, title V, § 502, Oct. 1, 1973, 87 Stat. 415, amended Pub. L. 94–135, title II, § 205(a), Nov. 28, 1975, 89 Stat. 727.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–135, § 205(a)(1), authorized appropriations of $6,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $22,000,000 for fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b). Pub. L. 94–135, § 205(a)(2)(A)–(D), authorized appropriations of $10,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $43,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in introductory text; $8,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $35,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (A); and $2,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $8,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (B).

§ 5083. National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience.

There are authorized to be appropriated $208,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, for the purpose of carrying out programs under subchapter III of this chapter. (Pub. L. 93–113, title V, § 503, Oct. 1, 1973, 87 Stat. 415.)

§ 5084. Administration and coordination.

There are authorized to be appropriated each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, such sums as may be necessary for the administration of this chapter as authorized in subchapter IV of this chapter. (Pub. L. 93–113, title V, § 504, Oct. 1, 1973, 87 Stat. 416.)

§ 5085. Availability of appropriations.

Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this chapter or any predecessor authority shall remain available, in accordance with the provisions of this chapter, for obligation and expenditure until expended. (Pub. L. 93–113, title V, § 505, Oct. 1, 1973, 87 Stat. 416.)

Chapter 67.—CHILD ABUSE PREVENTION AND TREATMENT [NEW]

Sec.
5101. National Center on Child Abuse and Neglect.
- (a) Establishment.
- (b) Functions.
  - (1) Annual research summary.
  - (2) Information clearinghouse.
  - (3) Training materials for personnel.
  - (4) Technical assistance.
  - (5) Research into causes, prevention, identification, and treatment.
  - (6) Study.
- (c) Grant and contract authority.

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- (c) Prohibition of assistance for construction of facilities; lease or rental and alteration or repair of facilities.
- (d) Criteria for equitable distribution of assistance.
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5104. Authorization of appropriations.
5105. Advisory Board on Child Abuse and Neglect.
- (a) Appointment; membership; Federal agencies represented; functions.
- (b) Report to President and Congress.
- (c) Same; funds.

5106. Coordination of Federal programs; regulations; arrangements.

§ 5101. National Center on Child Abuse and Neglect.

(a) Establishment.

The Secretary of Health, Education, and Welfare (hereinafter referred to in this chapter as the "Secretary") shall establish an office to be known as the

National Center on Child Abuse and Neglect (hereinafter referred to in this chapter as the "Center").

(b) Functions.

The Secretary, through the Center, shall—

(1) Annual research summary.

Compile, analyze, and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(2) Information clearinghouse.

Develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of child abuse and neglect;

(3) Training materials for personnel.

Compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

(4) Technical assistance.

Provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect;

(5) Research into causes, prevention, identification, and treatment.

Conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof; and

(6) Study.

Make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity.

(c) Grant and contract authority.

The Secretary may carry out his functions under subsection (b) of this section either directly or by way of grant or contract. (Pub. L. 93–247, § 2, Jan. 31, 1974, 88 Stat. 4, amended Pub. L. 93–644, § 8(d)(1), Jan. 4, 1975, 88 Stat. 2310.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–644 added subsec. (c).

SHORT TITLE

Section 1 of Pub. L. 93–247 provided: "That this Act [this chapter] may be cited as the 'Child Abuse Prevention and Treatment Act'."

§ 5102. Definitions.

For purposes of this chapter the term "child abuse and neglect" means the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary. (Pub. L. 93–247, § 3, Jan. 31, 1974, 88 Stat. 5.)

§ 5103. Demonstration programs and projects.

(a) Grants and contracts; scope of activities; funds for fiscal year.

The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect. Grants or contracts under this subsection may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect; and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services;

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

Not less than 50 per centum of the funds appropriated under this chapter for any fiscal year shall be used only for carrying out the provisions of this subsection.

(b) Grants to States; funds for fiscal year; qualifications for assistance; compliance of social security provisions with certain requirements.

(1) Of the sums appropriated under this chapter for any fiscal year, not less than 5 per centum and not more than 20 per centum may be used by the Secretary for making grants to the States for the payment of reasonable and necessary expenses for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, his parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this chapter for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

(J) to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment.

(3) Programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act shall comply with the requirements set forth in clauses (B), (C), (E), and (F) of paragraph (2).

(c) Prohibition of assistance for construction of facilities; lease or rental and alteration or repair of facilities.

Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) Criteria for equitable distribution of assistance.

The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

(e) Definition.

For the purpose of this section, the term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam and the Trust Territories of the Pacific. (Pub. L. 93–247, § 4, Jan. 31, 1974, 88 Stat. 5, amended Pub. L. 93–644, § 8(d)(2), Jan. 4, 1975, 88 Stat. 2310.)

REFERENCES IN TEXT

Parts A and B of title IV of Social Security Act, referred to in subsec. (b)(3), are classified to sections 601 et seq. and 620 et seq. of this title, respectively.

AMENDMENTS

1975—Subsec. (e). Pub. L. 93–644 added subsec. (e).

§ 5104. Authorization of appropriations.

There are hereby authorized to be appropriated for the purposes of this chapter $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, and for the succeeding fiscal year. (Pub. L. 93–247, § 5, Jan. 31, 1974, 88 Stat. 7.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5105 of this title.

§ 5105. Advisory Board on Child Abuse and Neglect.

(a) Appointment; membership; Federal agencies represented; functions.

The Secretary shall, within sixty days after January 31, 1974, appoint an Advisory Board on Child Abuse and Neglect (hereinafter referred to as the "Advisory Board"), which shall be composed of representatives from Federal agencies with responsibility for programs and activities related to child abuse and neglect, including the Office of Child Development, the Office of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration. The Advisory Board shall assist the Secretary in coordinating programs and activities related to child abuse and neglect administered or assisted under this chapter with such programs and activities administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal Standards for child abuse and neglect prevention and treatment programs and projects.

(b) Report to President and Congress.

The Advisory Board shall prepare and submit, within eighteen months after January 31, 1974, to

the President and to the Congress a report on the programs assisted under this chapter and the programs, projects, and activities related to child abuse and neglect administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. Such report shall include a study of the relationship between drug addiction and child abuse and neglect.

(c) Same; funds.

Of the funds appropriated under section 5104 of this title, one-half of 1 per centum, or $1,000,000, whichever is the lesser, may be used by the Secretary only for purposes of the report under subsection (b) of this section. (Pub. L. 93–247, § 6, Jan. 31, 1974, 88 Stat. 7.)

§ 5106. Coordination of Federal programs; regulations; arrangements.

The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this chapter and other such programs which are assisted by Federal funds. (Pub. L. 93–247, § 7, Jan. 31, 1974, 88 Stat. 8.)

Chapter 68.—DISASTER RELIEF [NEW]

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This chapter is referred to in sections 3231, 4003 of this title; title 26 sections 165, 5064, 5708; title 38 section 1820; title 40 section 461.

SUBCHAPTER I.—FINDINGS, DECLARATIONS, AND DEFINITIONS

§ 5121. Congressional findings and declarations.

(a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this chapter, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

(7) providing a long-range economic recovery program for major disaster areas.

(Pub. L. 93–288, title I, § 101, May 22, 1974, 88 Stat. 143.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section 605 of Pub. L. 93–288 provided that: "Except for section 408 [section 5178 of this title], this Act [see Short Title note hereunder] shall take effect as of April 1, 1974."

SHORT TITLE

Section 1 of Pub. L. 93–288 provided: "That this Act [enacting this section and sections 3231 to 3236, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and 5202 of this title, and section 1264 of Title 31, amending sections 1706c, 1709, 1715*l* of Title 12, sections 241–1, 646, 758 of Title 20, sections 165, 5064, 5708 of Title 26, section 1820 of Title 38, section 461 of Title 40, repealing sections 4401, 4402, 4411 to 4413, 4414 to 4420, 4431 to 4436, 4457 to 4462, 81 to 85 of this title, and enacting provisions set out as notes under this section and sections 401 and 5178 of this title, section 1264 of Title 31, and section 1681 of Title 48] may be cited as the 'Disaster Relief Act of 1974'."

REFERENCES TO DISASTER RELIEF ACT OF 1970

Section 602(m) of Pub. L. 93–288 provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act of 1974, see Short Title note under section 5121 of this title]), regulation rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744) [see Short Title note hereunder], repealed by this Act such reference shall be deemed to be a reference to the appropriate provisions of this Act."

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

EX. ORD. NO. 11749. CONSOLIDATION OF FUNCTIONS ASSIGNED TO THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, provided:

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees], the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401, *et seq.*) [this chapter], and section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Housing and Urban Development is designated and empowered to exercise without the approval, ratification, or other action of the President, all of the authority vested in the President by the Disaster Relief Act of 1970, as amended [this chapter], hereinafter referred to as the "Act", except (1) the authorities vested in the President by section 102(1) of the Act to declare a major disaster [section 4402 of this title], by section 251 of the Act [section 4481 of this title] to provide for the restoration of Federal facilities, and by section 253 of the Act [section 4483 of this title] to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance which are hereby reserved to the President; (2) the authority vested in the President by section 210 of the Act [section 4420 of this title] concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings which the Secretary of Defense is empowered to exercise by this order; and (3) the authority vested in the President by section 238 of the Act [section 4457 of this title] concerning food coupons and surplus commodities, which the Secretary of Agriculture is empowered to exercise by this order.

(b) The Secretary of Housing and Urban Development is hereby empowered to exercise without the approval, ratification, or other action of the President, all of the authority conferred upon the President by section 4 of

the act entitled "An Act to authorize for a limited period additional loan assistance under the Small Business Act for disaster victims, to provide for a study and report to the Congress by the President setting forth recommendations for a comprehensive revision of disaster relief legislation, and for other purposes."

(c) The Secretary of Housing and Urban Development may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Secretary by the provisions of this section. Any such head of the agency may redelegate any authority or function so delegated or assigned to him by the Secretary to any officer or employee subordinate to such head of the agency whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 2. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President:

(1) All authority which was vested in the Office of Emergency Preparedness, or the Director thereof, by the Disaster Relief Act of 1970, as amended [this chapter], and which was transferred to the President by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees].

(2) All authority which was vested in the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of (A) section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), (B) section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241–1), and (C) section 762(a) of the Higher Education Act of 1965 as added by section 161(a) of the Education Amendments of 1972, Public Law 92–318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes) [section 1132–1 of Title 20, Education], and which was transferred to the President by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees].

SEC. 3. (a) There is hereby established the National Council on Federal Disaster Assistance (hereinafter referred to as the "Council") which shall be composed of the Secretary of Housing and Urban Development, who shall be the Chairman of the Council, and policy level representatives of the Departments of Defense; the Interior; Agriculture; Commerce; Labor; Health, Education, and Welfare; and Transportation; and of the Small Business Administration and the Office of Economic Opportunity, and such other members as the President may from time to time designate. This Council supersedes the National Council on Federal Disaster Assistance established by Executive Order No. 11526. Representatives of the other Federal departments or agencies, officials of state and local governments, and private citizens may be invited by the Chairman to participate in the deliberations of the Council.

(b) The Council shall advise and assist the Secretary of Housing and Urban Development in: (1) Insuring that the Federal agencies furnish necessary assistance following a large-scale disaster on a priority basis to the Federal Coordinating Officer appointed by the President to operate under the Secretary of Housing and Urban Development, pursuant to section 201 of the Disaster Relief Act of 1970 [section 4411 of this title]; (2) developing policies and programs to provide a strong and integrated total Federal disaster assistance effort; (3) stimulating cooperation and the sharing of data, views, and information concerning disaster assistance among Federal agencies, State and local governments, and private organizations having disaster assistance responsibilities and interests; (4) facilitating cooperation among Federal, State, and local governments with special concern for the maintenance of local initiative and decisionmaking with respect to emergency restoration and rebuilding programs; (5) promoting the participation of Federal agencies in providing Federal assistance for rebuilding efforts; (6) encouraging research on means of preventing disasters and ameliorating the effects of those that occur; (7) reviewing, from time to time, the effectiveness of the Federal disaster assistance programs and suggesting needed changes.

(c) Consistent with law, the Department of Housing and Urban Development shall provide staff and other assistance to the Council, and executive departments and agencies shall furnish to the Council such available information as the Council may require in performance of its functions.

(d) Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned, pursuant to law to, any Federal agency or officer to the authority of the Council or of any other agency or officer or as abrogating any such function in any manner.

SEC. 4. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President all other incidental authority relating to matters described in sections 1 through 3 of this Executive order that has been vested in the Office of Emergency Preparedness or the Director thereof by the President by letter, memorandum, or other form of directive, or otherwise.

SEC. 5. (a) The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 210 of the Act concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings [section 4420 of this title].

(b) The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 238 of the Act concerning food coupons and surplus commodities [section 4457 of this title].

SEC. 6. (a) Executive Order Nos. 11526, 11575, 11662, and 11678, and section 1 of Executive Order No. 11725 are hereby superseded.

(b) This order shall be effective thirty days after the date of its issuance.

RICHARD NIXON.

EX. ORD. NO. 11795. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11795, July 11, 1974, 39 F.R. 25939, provided:

By virtue of the authority vested in me by the Disaster Relief Act of 1974 (Public Law 93–288; 88 Stat. 143) [this chapter], section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Housing and Urban Development is designated and empowered to exercise without the approval, ratification or other action by the President all of the authority vested in the President by the Disaster Relief Act of 1974 [this chapter], hereinafter referred to as the "act", except: (1) The authority vested in the President by section 301 of the act [section 5141 of this title] to declare emergencies and major disasters, by section 313 of the act [section 5153 of this title] to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance, by section 401 of the act [section 5171 of this title] to provide for the repair, reconstruction, restoration, or replacement of Federal facilities, by section 412 to provide legal services [section 5182 of this title], and by title V to provide for economic recovery [sections 3231 to 3236 of this title], which are hereby reserved to the President; (2) the authority vested in the President by that part of section 202(c) of the act [section 5132(c) of this title] concerning the utilization and availability of the Federal civil defense communications system for the purpose of disaster warnings which the Secretary of Defense is empowered to exercise by this order; and (3) the authority vested in the President by section 409 of the act [section 5179 of this title] concerning food coupons and distribution, which the Secretary of Agriculture is empowered to exercise by this order.

(b) The Secretary of Housing and Urban Development may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Secretary by the provisions of this section. Any such head of the agency may redelegate any authority or function so delegated or assigned to him by the Secretary to any officer or employee subordinate to such head of the agency.

(c) The Secretary of Housing and Urban Development shall prepare a plan for the implementation of the provisions of section 412 of the act [section 5182 of this title], relating to legal services, and shall submit that plan to the President through the Director of the Office of Management and Budget.

SEC. 2. The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by section 202(c) of the act [section 5132(c) of this title] concerning the utilization and availability of the Federal civil defense communications system for the purpose of disaster warnings.

SEC. 3. The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 409 of the act [section 5179 of this title] concerning food coupons and distribution.

SEC. 4. This order shall be effective as of May 22, 1974, and all actions taken by the Secretary of Housing and Urban Development pursuant to the act prior to the date of this order are, to the extent such actions would be authorized and under this order, ratified.

RICHARD NIXON.

§ 5122. Definitions.

As used in this chapter—

(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross. (Pub. L. 93–288, title I, § 102, May 22, 1974, 88 Stat. 144.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 sections 241–1, 646.

SUBCHAPTER II.—DISASTER PREPAREDNESS ASSISTANCE

§ 5131. Federal and state disaster preparedness programs.

(a) Utilization of services of other agencies.

The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies (including the Defense Civil Preparedness Agency) and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) Technical assistance for the development of plans and programs.

The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, business, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Grants to states for development of plans and programs.

Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) Grants for improvement, maintenance, and updating of state plans.

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State. (Pub. L. 93–288, title II, § 201, May 22, 1974, 88 Stat. 145.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5132. Disaster warnings.

(a) Readiness of federal agencies to issue warnings to state and local officials.

The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) Technical assistance to state and local governments for effective warnings.

The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) Warnings to governmental authorities and public endangered by disaster.

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 2281(c) of Title 50, Appendix, or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) Agreements with commercial communications systems for use of facilities.

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters. (Pub. L. 93–288, title II, § 202, May 22, 1974, 88 Stat. 145.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SUBCHAPTER III.—DISASTER ASSISTANCE ADMINISTRATION

§ 5141. Procedure for determination of the existence of emergency or major disaster.

(a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under this chapter, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists. (Pub. L. 93–288, title III, § 301, May 22, 1974, 88 Stat. 146.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 sections 241–1, 646; title 31 section 1264.

§ 5142. Federal assistance.

(a) Coordination of federal efforts in providing disaster assistance; scope of services; rules and regulations.

In the interest of providing maximum mobilization of Federal assistance under this chapter, the President shall coordinate, in such manner as he may determine, the activities of all Federal agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster assistance efforts. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency as he may designate.

(b) Waiver of administrative conditions for assistance.

Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance

under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Damage to farm fencing; special assistance.

Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law. (Pub. L. 93–288, title III, § 302, May 22, 1974, 88 Stat. 146).

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

Chapter I of the Third Supplemental Appropriation Act, 1957, referred to in subsec. (c), is chapter I of Pub. L. 85–58, 71 Stat. 176, which was not classified to the Code.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5143. Coordinating officers.

(a) Appointment of federal coordinating officer.

Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) Functions of federal coordinating officer.

In order to effectuate the purpose of this chapter, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this chapter, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) State coordinating officer.

When the President determines assistance under this chapter is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government. (Pub. L. 93–288, title III, § 303, May 22, 1974, 88 Stat. 147.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

Act of January 5, 1905, as amended (33 Stat. 599), referred to in subsec. (b)(3), is classified to section 1 et seq. of Title 36, Patriotic Societies and Observances.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5144. Emergency support teams.

The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this chapter. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status. (Pub. L. 93–288, title III, § 304, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in the text was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5145. Emergency assistance.

(a) Authority of the President.

In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

(b) Technical assistance; advisory personnel.

The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

(c) Other assistance.

In addition, in any emergency, the President is authorized to provide such other assistance under this chapter as the President deems appropriate. (Pub. L. 93–288, title III, § 305, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5175 of this title.

§ 5146. Cooperation of federal agencies in rendering disaster assistance.

(a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this chapter; and

(4) Performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this chapter. (Pub. L. 93–288, title III, § 306, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5175, 5189 of this title.

§ 5147. Reimbursement of federal agencies.

Federal agencies may be reimbursed for expenditures under this chapter from funds appropriated for the purposes of this chapter. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this chapter shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies. (Pub. L. 93–288, title III, § 307, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under secton 5121 of this title.

§ 5148. Nonliability of Federal Government.

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this chapter. (Pub. L. 93–288, title III, § 308, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5149. Performance of services.

(a) Utilization of services or facilities of state and local governments.

In carrying out the purposes of this chapter, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies.

In performing any services under this chapter, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of Title 5 governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such Title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(Pub. L. 93–288, title III, § 309, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288 set out as a note under section 5121 of this title.

§ 5150. Use of local firms and individuals.

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster. (Pub. L. 93–288, title III, § 310, May 22, 1974, 88 Stat. 150.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5151. Nondiscrimination in disaster assistance.

(a) Regulations for equitable and impartial relief operations.

The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(b) Compliance with regulations as prerequisite to participation by other bodies in relief operations.

As a condition of participation in the distribution of assistance or supplies under this chapter or of receiving assistance under section 5172 or 5174 of this title, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts. (Pub. L. 93–288, title III, § 311, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5174 of this title.

§ 5152. Use and coordination of relief organizations.

(a) In providing relief and assistance under this chapter, the President may utilize, with their consent the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this chapter, and such other regulation as the President may require. (Pub. L. 93–288, title III, § 312, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5153. Priority to certain applications for public facility and public housing assistance.

(a) In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 462 of Title 40 for assistance in public works planning;

(4) section 3102 of this title providing for grants for public facilities;

(5) section 1926 of Title 7;

(6) the Public Works and Economic Development Act of 1965, as amended;

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended.

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Devel-

opment Act of 1965. (Pub. L. 93–288, title III, § 313, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

Title II of the Housing Amendments of 1955, referred to in subsec. (a), is classified to section 1491 et seq. of this title.

United States Housing Act of 1937, referred to in subsec. (a), is classified to section 1401 et seq. of this title.

The Public Works and Economic Development Act of 1965, referred to in subsec. (a), is classified to section 3121 et seq. of this title.

The Appalachian Regional Development Act of 1965, referred to in subsec. (a), is Pub. L. 89–4, Mar. 9, 1965, 79 Stat. 5, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

Title II of the Federal Water Pollution Control Act, referred to in subsec. (a), is classified to section 1281 et seq. of Title 33, Navigation and Navigable Waters.

Title VIII of the Public Works and Economic Development Act of 1965, referred to in subsec. (b), is classified to section 3231 et seq. of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5154. Insurance.

(a) Compliance with regulations requiring insurance coverage.

(1) An applicant for assistance under section 3233, 5172, or 5189 of this title, shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) Requirement of insurance coverage for assistance under certain provisions.

No applicant for assistance under section 3233, 5172, or 5189 of this title, shall receive such assistance for any property or part thereof for which he has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

(c) States electing to be self-insurers.

A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section 3233, 5172, or 5189 of this title, or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available. (Pub. L. 93–288, title III, § 314, May 22, 1974, 88 Stat. 151.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5155. Duplication of benefits.

(a) The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The President shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the President determines (1) that a person, business concern, or other entity has received assistance under this chapter for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive. (Pub. L. 93–288, title III, § 315, May 22, 1974, 88 Stat. 152.)

REFERENCES IN TEXT

This chapter, referred to in the text was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5156. Reviews and reports.

The President shall conduct annual reviews of the activities of Federal agencies and State and local governments providing disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress. (Pub. L. 93–288, title III, § 316, May 22, 1974, 88 Stat. 152.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5157. Criminal and civil penalties.

(a) Fraudulent or willful misrepresentation.

Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this chapter shall be fined not more

than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Violation of orders and regulations.

Any individual who knowingly violates any order or regulation under this chapter shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Misapplication of loans and cash benefits.

Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this chapter shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit. (Pub. L. 93–288, title III, § 317, May 22, 1974, 88 Stat. 152.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5158. Availability of materials.

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations. (Pub. L. 93–288, title III, § 318, May 22, 1974, 88 Stat. 152.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SUBCHAPTER IV.—FEDERAL DISASTER ASSISTANCE PROGRAMS

§ 5171. Federal facilities.

(a) Repair, reconstruction, restoration or replacement of United States facilities.

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) Availability of funds appropriated to agency for repair, reconstruction, restoration or replacement of agency facilities.

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) Steps for mitigation of hazards.

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President. (Pub. L. 93–288, title IV, § 401, May 22, 1974, 88 Stat. 153.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5172. Repair and restoration of damaged facilities.

(a) Public facilities of state and local governments.

The President is authorized to make contributions to State or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

(b) Nonprofit educational, utility, emergency, medical, and custodial care facilities.

The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

(c) Facilities under completion at the time of disaster.

For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

(d) Definition.

For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(e) Maximum limit of grants.

The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.

(f) Decision by state or local government not to restore damaged facilities; limit on federal contribution.

In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (e) of this section, a contribution based on 90 per centum of the Federal estimate of the total cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area. (Pub. L. 93–288, title IV, § 402, May 22, 1974, 88 Stat. 153.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under seection 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3232, 5151, 5154, 5175, 5189 of this title.

§ 5173. Debris removal.

(a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal. (Pub. L. 93–288, title IV, § 403, May 22, 1974, 88 Stat. 154.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5175, 5189 of this title.

§ 5174. Temporary housing assistance.

(a) Rent free accommodations; utilities.

The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(b) Temporary mortgage or rental payments.

The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of forceclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) Repair or restoration of owner-occupied residential structures.

In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d) Sale of temporary housing acquired by purchase.

(1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 5151 of this title requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims in emergencies or in major disasters. (Pub. L. 93–288, title IV, § 404, May 22, 1974, 88 Stat. 154.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5151 of this title.

§ 5175. Protection of environment.

No action taken or assistance provided pursuant to section 5145, 5146, or 5173 of this title, or any assistance provided pursuant to section 5172 or 5189 of this title that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this chapter or under any other provision of law. (Pub. L. 93–288, title IV, § 405, May 22, 1974, 88 Stat. 155.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is classified to section 4321 et seq. of this title.

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5176. Minimum standards for public and private structures.

As a condition of any disaster loan or grant made under the provisions of this chapter, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this chapter, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation. (Pub. L. 93–288, title IV, § 406, May 22, 1974, 88 Stat. 155.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5177. Unemployment assistance.

(a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster. (Pub. L. 93–288, title IV, § 407, May 22, 1974, 88 Stat. 156.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5178. Individual and family grant programs.

(a) Grants to states.

The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this chapter, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) Matching grants by states.

The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State. Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so. No individual and no family shall receive any grant or

grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) Regulations.

The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) Expenditure for administering grants.

A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section. (Pub. L. 93–288, title IV, § 408(a)–(d), May 22, 1974, 88 Stat. 156.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section 408(e) of Pub. L. 93–288 provided that: "This section shall take effect as of April 20, 1973".

§ 5179. Food coupons and distribution.

(a) Persons eligible; terms and conditions.

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of this chapter.

(b) Duration of assistance; factors considered.

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food Stamp Act provisions unaffected.

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster. (Pub. L. 93–288, title IV, § 409, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

Food Stamp Act of 1964, referred to in text, is classified to section 2011 et seq. of Title 7, Agriculture.

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5180. Food commodities.

(a) Emergency mass feeding.

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities.

The Secretary of Agriculture shall utilize funds appropriated under section 612c of Title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area. (Pub. L. 93–288, title IV, § 410, May 22, 1974, 88 Stat. 157.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5181. Relocation assistance.

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act. (Pub. L. 93–288, title IV, § 411, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is classified to section 4601 et seq. of this title. See Short Title note under section 4601 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5182. Legal services.

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations. (Pub. L. 93–288, title IV, § 412, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5183. Crisis counseling assistance and training.

The President is authorized (through the National Institute of Mental Health) to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or

aggravated by such major disaster or its aftermath. (Pub. L. 93–288, title IV, § 413, May 22, 1974, 88 Stat. 157.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5184. Community disaster loans.

(a) The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter. (Pub. L. 93–288, title IV, § 414 (a), (b), May 22, 1974, 88 Stat. 158.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5185. Emergency communications.

The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate. (Pub. L. 93–288, title IV, § 415, May 22, 1974, 88 Stat. 158.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5186. Emergency public transportation.

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible. (Pub. L. 93–288, title IV, § 416, May 22, 1974, 88 Stat. 158.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5187. Fire suppression grants.

The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster. (Pub. L. 93–288, title IV, § 417, May 22, 1974, 88 Stat. 158.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5188. Timber sale contracts.

(a) Cost-sharing arrangement.

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority.

If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) Public notice of sale.

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of Title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber.

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber. (Pub. L. 93–288, title IV, § 418, May 22, 1974, 88 Stat. 158.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5189. Alternate contribution.

In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 5172 of this title, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 5146 of this title and debris removed under section 5173 of this title, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 5146, 5172, or 5173 of this title. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 5146 or 5173 of this title. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. (Pub. L. 93–288, title IV, § 419, May 22, 1974, 88 Stat. 159.)

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5154, 5175 of this title.

SUBCHAPTER V.—MISCELLANEOUS

§ 5201. Rules and regulations.

The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency or agencies as he may designate. (Pub. L. 93–288, title IV, § 601, May 22, 1974, 88 Stat. 163.)

REFERENCES IN TEXT

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as a note under section 5121 of this title.

§ 5202. Authorization of appropriations.

Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this chapter through the close of June 30, 1977. (Pub. L. 93–288, title VI, § 606, May 22, 1974, 88 Stat. 164.)

REFERENCES IN TEXT

The amendment made by section 501, referred to in text, means the enactment, by section 501 of Pub. L. 93–288, of Title VIII of the Public Works and Economic Development Act of 1965, which is set out as section 3231 et seq. of this title.

This chapter, referred to in the text, was in the original this Act, meaning Pub. L. 93–288, which enacted this chapter. For classification of Pub. L. 93–288 in addition to this chapter, see Tables Volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93–28, set out as a note under section 5121 of this title.

Chapter 69.—COMMUNITY DEVELOPMENT [NEW]

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 1440, 1452b, 2985b of this title; title 40 section 461; title 40 App. section 214.

§ 5301. Congressional findings and declaration of purpose.

(a) The Congress finds and declares that the Nation's cities, towns, and smaller urban communities, face critical social, economic, and environmental problems arising in significant measure from—

(1) The growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities; and

(2) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment.

(b) The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and require—

(1) systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low- and moderate-income families, and to develop new centers of population growth and economic activity;

(2) substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities; and

(3) continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts.

(c) The primary objective of this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives—

(1) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons.

It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

(d) It is also the purpose of this chapter to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which—

(1) provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) encourages community development activities which are consistent with comprehensive local and areawide development planning;

(3) furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner.

(Pub. L. 93–383, title I, § 101, Aug. 22, 1974, 88 Stat. 633.)

SHORT TITLE

Section 1 of Pub. L. 93–383 provided: "That this Act [which enacted this chapter, sections 1701j–2, 1701*l*–1, 1701z–5, 1701z–6, 1703e, 1715z–9 to 1715z–11, and 1735f–3 to 1735f–5 of Title 12, section 803a of Title 20, and sections 1437 to 1437j, 1438 to 1440, 1490e to 1490g, 4104a, and 5401 to 5426 of this title, amended sections 5315 and 5316 of Title 5, sections 24, 371, 1431, 1436, 1454, 1464, 1701q, 1701u, 1701x, 1701z–3, 1703, 1709, 1709–1, 1713, 1715e, 1715h 1715k to 1715n, 1715v, 1715w, 1715y, 1715z, 1715z–1, 1715z–3, 1715z–6, 1715z–7, 1717, 1718, 1719, 1723a, 1735b, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749aaa–4, 1749aaa–4, 1749aaa–5, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of Title 12, sections 1701 to 1703 of Title 15, sections 801, 802, and 806 of Title 20, section 711 of Title 31, sections 460 and 461 of Title 40, sections 1441a, 1441c, 1452b, 1453, 1471, 1472, 1474, 1476 to 1478, 1483, 1485, 1487, 1490, 1490a, 1490c, 1490d, 1586, 3311, 3533, 3604 to 3605, 3631, 4014, 4512, 4514 to 4516, 4519, and 4532 of this title, and sections 1602 and 1602a of Title 49, repealed sections 1411d and 1455a of this title, and enacted provisions set out as notes under this section, sections 1464, 1701q, 1715*l*, 1715z–1, 1715b, and 1723a of Title 12, section 1703 of Title 15, sections 1410, 1421b, 1437, 1437a, 1437*f*, 3532, and 5401 of this title, and section 1602a of Title 49] may be cited as the 'Housing and Community Development Act of 1974'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Section 817 of Pub. L. 93–383 provided that: "Assistance provided for in this Act, the National Housing Act, [Act June 27, 1934], the United States Housing Act of 1937 [Act Sept. 1, 1937], the Housing Act of 1949 [Act July 15, 1949], the Demonstration Cities and Metropolitan Development Act of 1966 [Pub. L. 89–754], and the Housing and Urban Development Acts of 1965 [Pub. L. 89–117], 1968 [Pub. L. 90–448], 1969 [Pub. L. 91–152], and 1970 [Pub. L. 91–609] [For distribution in this Code, see Tables volume] shall not be withheld or made subject to conditions or preference by reason of the tax-exempt status of bonds or other obligations issued or to be issued to provide financing for use in connection with such assistance, except where otherwise expressly provided or authorized by law."

§ 5302. General provisions.

(a) Definitions.

As used in this chapter—

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States. Such term also includes a State or a local public body or agency (as defined in section 4512 of this title), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 4513 of this title or title IV of the Housing and Urban Development Act of 1968.

(2) The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(3) The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(4) The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more.

(5) The term "city" means (A) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to these associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(6) The term "urban county" means any county within a metropolitan area which (A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and (B) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(7) The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(8) The term "extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(9) The term "extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(10) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this chapter.

(11) The term "program period" means the period beginning January 1, 1975, and ending June 30, 1975, and the period covering each fiscal year thereafter.

(12) The term "Community Development Program" means a program described in section 5304 (a) (2) of this title.

(13) The term "Secretary" means the Secretary of Housing and Urban Development.

(b) Basis and modification of definitions.

Where appropriate, the definitions in subsection (a) of this section shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) of this section in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) Designation of public agencies to undertake Community Development Programs.

One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a Community Development Program in whole or in part. (Pub. L. 93–383, title I, § 102, Aug. 22, 1974, 88 Stat. 635.)

REFERENCES IN TEXT

Title IV of the Housing and Urban Development Act of 1968, referred to in subsec. (a) (1), is classified to section 3901 et seq. of this title.

§ 5303. Grants for State and local Community Development Programs.

(a) Authority of Secretary; limitation on amount of obligations incurred; authorization of appropriations for liquidation of obligations; availability of unobligated amounts; allocation of appropriated amounts.

(1) The Secretary is authorized to make grants to States and units of general local government to help finance Community Development Programs approved in accordance with the provisions of this chapter. The Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating such sum, not to exceed $8,400,000,000, as may be approved in an appropriation Act. The amount so approved shall become available for obligation on January 1, 1975, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $2,500,000,000 prior to the close of the fiscal year 1975, which amount may be increased to not to exceed an aggregate of $5,450,000,000 prior to the close of the fiscal year 1976, and to not to exceed an aggregate of $8,400,000,000 prior to the close of the fiscal year 1977. Subject to the limitations contained in the preceding sentence, appropriations for—

(A) grants under title VII of the Housing Act of 1961;

(B) grants under sections 3102 and 3103 of this title; and

(C) supplemental grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966,

may be used, to the extent not otherwise obligated prior to January 1, 1975, for the liquidation of contracts entered into pursuant to this section.

(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $50,000,000 for each of the fiscal years 1975 and 1976 shall be added to the amount available for allocation under section 5306(d) of this title and shall not be subject to the provisions of section 5307 of this title.

(b) Additional authorization of appropriations for general local government units having urgent community development needs.

In addition to the amounts made available under subsection (a) of this section, and for the purpose of facilitating an orderly transition to the program authorized under this chapter, there are authorized to be appropriated not to exceed $50,000,000 for each of the fiscal years 1975 and 1976, and not to exceed $100,000,000 for the fiscal year 1977, for grants under this chapter to units of general local government having urgent community development needs which cannot be met through the operation of the allocation provisions of section 5306 of this title.

(c) Availability of unexpended appropriations.

Sums appropriated pursuant to this section shall remain available until expended.

(d) Submission to Congress of requests for additional appropriations.

To assure program continuity and orderly planning, the Secretary shall submit to the Congress timely requests for additional authorizations for the fiscal years 1978 through 1980. (Pub. L. 93–383, title I, § 103, Aug. 22, 1974, 88 Stat. 637.)

REFERENCES IN TEXT

Title VII of the Housing Act of 1961, referred to in subsec. (a)(1)(A), is classified to section 1500 et seq. of this title.

Title I of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a)(1)(C), is classified to section 3301 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5306, 5307, 5308, 5312, 5316 of this title.

§ 5304. Procedures for award of grants.

(a) Applications; contents; statements of assurances.

No grant may be made pursuant to section 5306 of this title unless an application shall have been submitted to the Secretary in which the applicant—

(1) sets forth a summary of a three-year community development plan which identifies community development needs, demonstrates a comprehensive strategy for meeting those needs, and specifies both short- and long-term community development objectives which have been developed in accordance with areawide development planning and national urban growth policies;

(2) formulates a program which (A) includes the activities to be undertaken to meet its community development needs and objectives, together with the estimated costs and general location of such activities, (B) indicates resources other than those provided under this chapter which are expected to be made available toward meeting its identified needs and objectives, and (C) takes into account appropriate environmental factors;

(3) describes a program designed to—

(A) eliminate or prevent slums, blight, and deterioration where such conditions or needs exist; and

(B) provide improved community facilities and public improvements, including the provision of supporting health, social, and similar services where necessary and appropriate;

(4) submits a housing assistance plan which—

(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, and persons displaced or to be displaced) residing in or expected to reside in the community,

(B) specifies a realistic annual goal for the number of dwelling units or persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, and (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and

(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects;

(5) provides satisfactory assurances that the program will be conducted and administered in conformity with Public Law 88–352 and Public Law 90–284; and

(6) provides satisfactory assurances that, prior to submission of its application, it has (A) provided citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements, (B) held public hearings to obtain the views of citizens on community development and housing needs, and (C) provided citizens an adequate opportunity to participate in the development of the application; but no part of this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Program.

(b) Additional requirements of application; certifications to Secretary; waiver of required Program provisions.

(1) Not more than 10 per centum of the estimated costs referred to in subsection (a)(2) of this section which are to be incurred during any contract period may be designated for unspecified local option activities which are eligible for assistance under section 5305(a) of this title or for a contingency account for activities designated by the applicant pursuant to subsection (a)(2) of this section.

(2) Any grant under this chapter shall be made only on condition that the applicant certify to the satisfaction of the Secretary that its Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- or moderate-income families or aid in the prevention or elimination of slums or blight. The Secretary may also approve an application describing acitivities which the applicant certifies and the Secretary determines are designed to meet other community development needs having a particular urgency as specifically described in the application.

(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) of this section if (A) the application for assistance is in behalf of a locality having a population of less than 25,000 according to the most recent data compiled by the Bureau of the Census which is located either (i) outside a standard metropolitan statistical area, or (ii) inside such an area but outside an "urbanized area" as defined by the Bureau of the Census (or as such definition is modified by the Secretary for purposes of this chapter), (B) the application relates to the first community development activity to be carried out by such locality with assistance under this chapter, (C) the assistance requested is for a single development activity under this chapter of a type eligible for assistance under title VII of the Housing Act of 1961 or title VII of the Housing and Urban Development Act of 1965, and (D) the Secretary determines that, having regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this chapter.

(4) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraphs (5) and (6) of subsection (a) of this section.

(c) Approval of application.

The Secretary shall approve an application for an amount which does not exceed the amount determined in accordance with section 5306(a) of this title unless—

(1) on the basis of significant facts and data, generally available and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts or data; or

(2) on the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant pursuant to subsection (a) of this section; or

(3) the Secretary determines that the application does not comply with the requirements of this chapter or other applicable law or proposes activities which are ineligible under this chapter.

(d) Submission of annual performance report by grantee to Secretary; contents; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants.

Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this chapter, together with an assessment by the grantee of the relationship of those activities to the objectives of this chapter and the needs and objectives identified in the grantee's statement submitted pursuant to subsection (a) of this section. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, whether that program conformed to the requirements of this chapter and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved Community Development Program. The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with his findings pursuant to this subsection.

(e) Submission of application for review and comment by areawide agency under procedures established by President pursuant to applicable statutes.

No grant may be made under this chapter unless the application therefor has been submitted for review and comment to an areawide agency under procedures established by the President pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968.

(f) Approval date of application; adjustment of amount of grant subsequent to approval of application.

An application subject to subsection (c) of this section, if submitted after any date established by the Secretary for consideration of applications, shall be deemed approved within 75 days after receipt unless the Secretary informs the applicant of specific reasons for disapproval. Subsequent to approval of the application, the amount of the grant may be adjusted in accordance with the provisions of this chapter.

(g) Audit of grantees by General Accounting Office; access to books, accounts, records, etc. by representatives of General Accounting Office.

Insofar as they relate to funds provided under this chapter, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(h) Environmental protection measures applicable for release of funds to applicants for projects; issuance of regulations by Secretary subsequent to consultation with Council on Environmental Quality; request and certification to Secretary for approval of release of funds; form, contents and effect of certification.

(1) In order to assure that the policies of the National Environmental Policy Act of 1969 are most effectively implemented in connection with the expenditure of funds under this chapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to applicants who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.

(2) The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds to such projects other than for purposes authorized by section 5305(a)(12) of this title or for environmental studies, the applicant has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act insofar as those responsibilities relate to the applications and releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(3) A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary,

(B) be executed by the chief executive officer or other officer of the applicant qualified under regulations of the Secretary,

(C) specify that the applicant has fully carried out its responsibilities as described under paragraph (1) of this subsection, and

(D) specify that the certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply pursuant to paragraph (1) of this subsection, and (ii) is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(Pub. L. 93–383, title I, § 104, Aug. 22, 1974, 88 Stat. 638.)

REFERENCES IN TEXT

Public Law 88–352, referred to in subsec. (a)(5), is popularly known as the "Civil Rights Act of 1964". For distribution of such Act in this Code, see Short Title note set out under section 2000a of this title.

Public Law 90–284, referred to in subsec. (a)(5), is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73. For distribution of such Act in this Code, see Tables volume.

Title VII of the Housing Act of 1961, referred to in subsec. (b)(3), is classified to section 1500 et seq. of this title.

Title VII of the Housing and Urban Development Act of 1965, referred to in subsec. (b)(3), is classified to section 3101 et seq. of this title.

Title II of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (e), is classified to section 3331 et seq. of this title.

Title IV of the Intergovernmental Cooperation Act of 1968, referred to in subsec. (e), is classified to section 4231 et seq. of this title.

The National Environmental Policy Act of 1969, referred to in subsec. (h), is classified to section 4321 et seq. of this title.

Such Act, referred to in subsec. (h) is the National Environmental Policy Act of 1969, classified to section 4321 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1439, 5302, 5306, 5308, 5316 of this title.

§ 5305. Activities of Community Development Programs eligible for assistance; reimbursement of Secretary for administrative services connected with rehabilitation of properties.

(a) A Community Development Program assisted under this chapter may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements—including neighborhood facilities, senior centers, historic properties, utilities, streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and recreation facilities, flood and drainage facilities in cases where assistance for such facilities under other Federal laws or programs is determined to be unavailable, and parking facilities, solid waste disposal facilities, and fire protection services and facilities which are located in or which serve designated community development areas;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements (including interim assistance and financing rehabilitation of privately owned properties when incidental to other activities);

(5) special projects directed to the removal of material and architectural barriers which restrict

the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities under this chapter;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;

(8) provision of public services not otherwise available in areas where other activities assisted under this chapter are being carried out in a concentrated manner, if such services are determined to be necessary or appropriate to support such other activities and if assistance in providing or securing such services under other applicable Federal laws or programs has been applied for and denied or not made available within a reasonable period of time, and if such services are directed toward (A) improving the community's public services and facilities, including those concerned with the employment, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and (B) coordinating public and private development programs;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the Community Development Program;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) relocation payments and assistance for individuals, families, businesses, organizations, and farm operations displaced by activities assisted under this chapter;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this chapter may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation; and

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities.

(b) Upon the request of the recipient of a grant under this chapter, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4) of this section. (Pub. L. 93–383, title I, § 105, Aug. 22, 1974, 88 Stat. 641.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, referred to in subsec. (a)(10), is Title I of Act July 15, 1949, ch. 338, 63 Stat. 414, classified generally to section 1450 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5304, 5308 of this title.

§ 5306. Allocation and distribution of funds.

(a) Amount allocated to metropolitan areas; annual grants for metropolitan cities and urban counties; limitations.

Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 80 per centum shall be allocated by the Secretary to metropolitan areas. Except as provided in subsections (c) and (e) of this section, each metropolitan city and urban county shall, subject to the provisions of section 5304 of this title and except as otherwise specifically authorized, be entitled to annual grants from such allocation in an aggregate amount not exceeding the greater of its basic amount computed pursuant to paragraph (2) or (3) of subsection (b) of this section or its hold-harmless amount computed pursuant to subsection (g) of this section.

(b) Amount allocated to metropolitan cities; basic grant amounts for metropolitan cities and urban counties; computations.

(1) The Secretary shall determine the amount to be allocated to all metropolitan cities which shall be an amount that bears the same ratio to the allocation for all metropolitan areas as the average of the ratios between—

(A) the population of all metropolitan cities and the population of all metropolitan areas;

(B) the extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

(C) the extent of housing overcrowding in all metropolitan cities and the extent of housing overcrowding in all metropolitan areas.

(2) From the amount allocated to all metropolitan cities the Secretary shall determine for each metropolitan city a basic grant amount which shall equal an amount that bears the same ratio to the allocation for all metropolitan cities as the average of the ratios between—

(A) the population of that city and the population of all metropolitan cities;

(B) the extent of poverty in that city and the extent of poverty in all metropolitan cities; and

(C) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan cities.

(3) The Secretary shall determine the basic grant amount of each urban county by—

(A) calculating the total amount that would have been allocated to metropolitan cities and urban counties together under paragraph (1) of this subsection if data pertaining to the population, extent of poverty, and extent of housing overcrowding in all urban counties were included in the numerator of each of the fractions described in such paragraph; and

(B) determining for each county the amount which bears the same ratio to the total amount calculated under subparagraph (A) of this paragraph as the average of the ratios between—

(i) the population of that urban county and the population of all metropolitan cities and urban counties;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan cities and urban counties.

(4) In determining the average of ratios under paragraphs (1), (2), and (3), the ratio involving the extent of poverty shall be counted twice.

(5) In computing amounts or exclusions under this section with respect to any urban county there shall be excluded units of general local government located in the county (A) which receive hold-harmless grants pursuant to subsection (h) of this section, or (B) the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection.

(c) Adjustment of basic grant amounts for metropolitan cities and urban counties; time periods for adjustments.

During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section, the basic grant amount of such city or county as computed under subsection (b) of this section shall be adjusted as provided in this subsection if the amount so computed for the first such year exceeds the city's or county's hold-harmless amount as determined under subsection (g) of this section. Such adjustment shall be made so that—

(1) the amount for the first year does not exceed one-third of the full basic grant amount computed under subsection (b) of this section, or the hold-harmless amount, whichever is the greater.

(2) the amount for the second year does not exceed two-thirds of the full basic grant amount computed under subsection (b) of this section, or the hold-harmless amount, or the amount allowed under paragraph (1) of this subsection, whichever is the greatest, and

(3) the amount for the third year does not exceed the full basic grant amount computed under subsection (b) of this section.

(d) Additional allocations of amounts allocated to metropolitan areas and added amounts for grants to metropolitan cities, urban counties, specified units of general local government, and States; computations.

Any portion of the amount allocated to metropolitan areas under the first sentence of subsection (a) of this section which remains after the allocation of grants to metropolitan cities and urban counties in accordance with subsections (b) and (c) of this section and any amounts added in accordance with the provisions of section 5303(a)(2) of this title shall be allocated by the Secretary—

(1) first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h) of this section; and

(2) second, for grants to units of general local government (other than metropolitan cities and urban counties) and States for use in metropolitan areas, allocating for each such metropolitan area an amount which bears the same ratio to the allocation for all metropolitan areas available under this paragraph as the average of the ratios between—

(A) the population of that metropolitan area and the population of all metropolitan areas,

(B) the extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas, and

(C) the extent of housing overcrowding in that metropolitan area and the extent of housing overcrowding in all metropolitan areas.

In determining the average of ratios under paragraph (2), the ratio involving the extent of poverty shall be counted twice; and in computing amounts under such paragraph there shall be excluded any metropolitan cities, urban counties, and units of general local government which receive hold-harmless grants pursuant to subsection (h) of this section.

(e) Reallocation of amounts allocated to metropolitan cities, urban counties, and metropolitan areas for use by States, metropolitan cities, urban counties, or specified units of general local government; prerequisites; review by Secretary.

Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not applied for during a program period or which are not approved by the Secretary, and any other amounts allocated to a metropolitan area which the Secretary determines, on the basis of the applications and other evidence available, are not likely to be fully obligated during such program period, shall be reallocated during the same period for use by States, metropolitan cities, urban counties, or units of general local government, first, in any metropolitan area in the same State, and second, in any other metropolitan area. The Secretary shall review determinations under this subsection from time to time as appropriate with a view of assuring maximum use of all available funds in the period for which such funds were appropriated.

(f) Amounts allocated to units of general local government of metropolitan areas and States; computations; reallocation of amounts to nonmetropolitan areas of other States; prerequisites; review by Secretary.

(1) Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 20 per centum shall be allocated by the Secretary—

(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h) of this section; and

(B) second, for grants to units of general local government outside of metropolitan areas and

States for use outside of metropolitan areas, allocating for the nonmetropolitan areas of each State an amount which bears the same ratio to the allocation available under this subparagraph for the nonmetropolitan areas of all States as the average of the ratios between—

(i) the population of the nonmetropolitan areas of that State and the population of the nonmetropolitan areas of all the States,

(ii) the extent of poverty in the nonmetropolitan areas of that State and the extent of poverty in the nonmetropolitan areas of all the States, and

(iii) the extent of housing overcrowding in the nonmetropolitan areas of that State and the extent of housing overcrowding in the nonmetropolitan areas of all the States.

In determining the average of ratios under subparagraph (B), the ratio involving the extent of poverty shall be counted twice; and in computing amounts under such subparagraph there shall be excluded units of general local government which receive hold-harmless grants pursuant to subsection (h) of this section.

(2) Any amounts allocated to a unit of general local government under paragraph (1) which are not applied for during a program period or which are not approved by the Secretary, and any amounts allocated to the nonmetropolitan areas of a State under paragraph (1)(B) which the Secretary determines, on the basis of applications and other evidence available, are not likely to be fully obligated during such period, shall be reallocated as soon as practicable during the same period to the nonmetropolitan areas of other States. The Secretary shall review determinations under this paragraph from time to time with a view to assuring maximum use of all available funds in the program period for which such funds were appropriated.

(g) Hold-harmless amount of metropolitan cities and urban counties; factors determining computation of sum.

(1) The full hold-harmless amount of each metropolitan city or urban county shall be the sum of (i) the sum of the average during the five fiscal years ending prior to July 1, 1972, of (1) commitments for grants (as determined by the Secretary) pursuant to part A of title I of the Housing Act of 1949; (2) loans pursuant to section 1452b of this title; (3) grants pursuant to sections 3102 and 3103 of this title; (4) loans pursuant to title II of the Housing Amendments of 1955; and (5) grants pursuant to title VII of the Housing Act of 1961; and (ii) the average annual grant, as determined by the Secretary, made in acocrdance with part B of title I of the Housing Act of 1949 during the fiscal years ending prior to July 1, 1972, or during the fiscal year 1973 in the case of a metropolitan city or urban county which first received a grant under part B of such title in such fiscal year. In the case of a metropolitan city or urban county which has participated in the program authorized under section 3305 of this title and which has been funded or extended in the fiscal year 1973 for a period ending after June 30, 1973, determinations of the hold-harmless amount of such metropolitan city or urban county for the following specified years shall be made so as to include, in addition to the amounts specified in clauses (i) and (ii) of the preceding sentence, the following percentages of the average annual grant, as determined by the Secretary made in accordance with such section during fiscal years ending prior to July 1, 1972—

(A) 100 per centum for each of a number of years which when added to the number of funding years for which the city or county received grants under such section 3305 of this title, equals five;

(B) 80 per centum for the year immediately following year five as determined pursuant to clause (A),

(C) 60 per centum for the year immediately following the year provided for in clause (B); and

(D) 40 per centum for the year immediately following the year provided for in clause (C).

For the purposes of this paragraph the average annual grant under part B of title I of the Housing Act of 1949 or under section 3305 of this title shall be established by dividing the total amount of grants made to a participant under the program by the number of months of program activity for which funds were authorized and multiplying the result by twelve.

(2) During the fiscal years 1975, 1976, and 1977, the hold-harmless amount of any metropolitan city or urban county shall be the full amount computed for the city or county in accordance with paragraph (1). In the fiscal years 1978, 1979, and 1980, if such amount is greater than the basic grant amount of the metropolitan city or urban county for that year, as computed under subsection (b) (2) or (3) of this section, it shall be reduced so that—

(i) in the fiscal year 1978, the excess of the hold-harmless amount over the basic grant amount shall equal two-thirds of the difference between the amount computed under paragraph (1) and the basic grant amount for such year,

(ii) in the fiscal year 1979, the excess of the hold-harmless amount over the basic grant amount shall equal one-third of the difference between the amount computed under paragraph (1) and the basic grant amount for such year, and

(iii) in the fiscal year 1980, there shall be no excess of the hold-harmless amount over the basic grant amount.

(h) Hold-harmless grants for units of general local government not a metropolitan city or urban county; computation of aggregate amount; prerequisites.

(1) Any unit of general local government which is not a metropolitan city or urban county shall, subject to the provisions of section 5304 of this title and except as otherwise specifically authorized, be entitled to grants under this chapter for any year in an aggregate amount at last equal to a hold-harmless amount as computed under the provisions of subsection (g)(1) of this section if, during the five-fiscal-year period specified in the first sentence of subsection (g)(1) of this section (or during the fiscal year 1973 in the case of a locality which first received a grant for a neighborhood development program in that year) one or more urban renewal projects, code enforcement programs, neighborhood

development programs, or model cities programs were being carried out by such unit of general local government pursuant to commitments for assistance entered into during such period under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966.

(2) In the fiscal years 1978, 1979, and 1980, in determining the hold-harmless amount of units of general local government qualifying under this subsection, the second sentence of subsection (g)(2) of this section shall be applied as though such units were metropolitan cities or urban counties with basic grant amounts of zero.

(i) Percentages excluded from data in computation of hold-harmless grants for units of general local government for fiscal years 1978 and 1979.

In excluding the population, poverty, and housing overcrowding data of units of general local government which receive a hold-harmless grant pursuant to subsection (h) of this section from the computations described in subsections (b)(5), (d), and (f) of this section, the Secretary shall exclude only two-thirds of such data for the fiscal year 1978 and one-third of such data for the fiscal year 1979.

(j) Waiver of eligibility by units of general local government for hold-harmless grants; computations unaffected by waiver.

Any unit of general local government eligible for a hold-harmless grant pursuant to subsection (h) of this section may, not later than thirty days prior to the beginning of any program period, irrevocably waive its eligibility under such subsection. In the case of such a waiver the unit of general local government shall not be excluded from the computations described in subsections (b)(5), (d), and (f) of this section.

(k) Qualification or submission dates, and finality and conclusiveness of computations and determinations.

The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(l) Report to Congress and study by Secretary; contents.

Not later than March 31, 1977, the Secretary shall make a report to the Congress setting forth such recommendations as he deems advisable, in furtherance of the purposes and policy of this chapter, for modifying or expanding the provisions of this section relating to the method of funding and the allocation of funds and the determination of the basic grant entitlement, and for the application of such provisions in the further distribution of funds under this chapter. In making this report, the Secretary shall conduct a study to determine how funds authorized under this chapter can be distributed in accordance with community development needs, objectives, and capacities, measured to the maximum extent feasible by objective standards. (Pub. L. 93–383, title I, § 106, Aug. 22, 1974, 88 Stat. 642.)

REFERENCES IN TEXT

Part A of title I of the Housing Act of 1949, referred to in subsec. (g)(1), is classified to section 1450 et seq. of this title.

Title II of the Housing Amendments of 1955, referred to in subsec. (g)(1), is classified to section 1491 et seq. of this title.

Title VII of the Housing Act of 1961, referred to in subsec. (g)(1), is classified to section 1500 et seq. of this title.

Part B of title I of the Housing Act of 1949, referred to in subsec. (g)(1), is classified to section 1469 et seq. of this title.

Part B of such title, referred to in subsec. (g)(1), is part B of title I of the Housing Act of 1949, which is classified to section 1469 et seq. of this title.

Title I of the Housing Act of 1949, referred to in subsec. (h)(1), is classified to section 1450 et seq. of this title.

Title I of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (h)(1), is classified to section 3301 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5307, 5308, 5312, 5316 of this title.

§ 5307. Special discretionary fund.

(a) Amount; purposes for expenditure from fund.

Of the total amount of authority to enter into contracts approved in appropriation Acts under section 5303(a)(1) of this title for each of the fiscal years 1975, 1976, and 1977, an amount equal to 2 per centum thereof shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants (in addition to any other grants which may be made under this chapter to the same entities or for the same purposes)—

(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968;

(2) to States and units of general local government which join in carrying out housing and community development programs that are areawide in scope;

(3) in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(4) to States and units of general local government for the purpose of demonstrating innovative community development projects;

(5) to States and units of general local government for the purpose of meeting emergency community development needs caused by federally recognized disasters; and

(6) to States and units of general local government where the Secretary deems it necessary to correct inequities resulting from the allocation provisions of section 5306 of this title.

(b) Limitation on amount reserved for emergency disaster needs.

Not more than one-fourth of the total amount reserved and set aside in the special discretionary fund under subsection (a) of this section for each year may be used for grants to meet emergency disaster needs under subsection (a)(5) of this section.

(c) Availability of unexpended amounts.

Amounts reserved and set aside in the special discretionary fund under subsection (a) of this section in any fiscal year but not used in such year shall remain available for use in accordance with subsections (a) and (b) of this section in subsequent

fiscal years. (Pub. L. 93–383, title I, § 107, Aug. 22, 1974, 88 Stat. 647.)

REFERENCES IN TEXT

Title VII of the Housing and Urban Development Act of 1970, referred to in subsec. (a)(1), is classified to section 4501 et seq. of this title.

Title IV of the Housing and Urban Development Act of 1968, referred to in subsec. (a)(1), is classified to section 3901 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1439, 5303, 5306, 5308, 5316 of this title.

§ 5308. Guarantee and commitment to guarantee loans for acquisition of property.

(a) Authority of Secretary; issuance of obligations by units of general local government or designated public agencies.

The Secretary is authorized, upon such terms and conditions as he may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purpose of financing the acquisition or assembly of real property (including such expenses related thereto as the Secretary may permit by regulation) to serve or be used in carrying out activities which are eligible for assistance under section 5305 of this title and are identified in the application under section 5304 of this title, and with respect to which grants have been or are to be made under section 5303 of this title, but no such guarantee shall be issued in behalf of any agency designed to benefit, in or by the flotation of any issue, a private individual or corporation.

(b) Prerequisites.

No guarantee or commitment to guarantee shall be made with respect to any unit of general local government or public agency designated by any such unit of general local government unless—

(1) the Secretary, from sums approved in appropriation Acts and allocated for obligation to the unit of general local government pursuant to sections 5306 and 5307 of this title, shall have reserved and withheld, for the purpose of paying the guaranteed obligations (including interest), an amount which is at least equal to 110 per centum of the difference between the cost of acquiring the land and related expenses and the estimated proceeds to be derived from the sale or other disposition of the land, as determined or approved by the Secretary, which amount may subsequently be increased by the Secretary to the extent he determines such increase is necessary or appropriate because of any unanticipated, major reduction in such estimated disposition proceeds;

(2) the unit of general local government shall have given to the Secretary, in a form acceptable to him, a pledge of its full faith and credit, or a pledge of revenues approved by the Secretary, for the repayment of so much of any amount required to be paid by the United States pursuant to any guarantee under this section as is equal to the difference between the principal amount of the guaranteed obligations and interest thereon and the amount which is to be reserved and withheld under paragraph (1); and

(3) the unit of general local government has pledged to the repayment of any amounts which are required to be paid by the United States pursuant to its guarantee under this section, and which are not otherwise fully repaid when due pursuant to paragraph (1) and (2), the proceeds of any grants for which such unit of general local government may become eligible under this chapter.

(c) Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(d) Issuance of obligations by Secretary to Secretary of Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of Treasury.

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which such securities may be issued under such Act are extended to include the purchases of the Secretary's obligations hereunder.

(e) Federal taxation of guaranteed obligations; grants to borrowing unit or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant.

Obligations guaranteed under this section, may, at the option of the issuing unit of general local government or designated agency, be subject to Federal taxation as provided in subsection (g) of this section. In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants to or on behalf of the issuing unit of general local government or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing unit or agency of such obligations.

(f) Inclusion within gross income for purpose of chapter 1 of Title 26 of interest paid on taxable obligations.

With respect to any obligation issued by a unit of general local government or designated agency which such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of Title 26. (Pub. L. 93–383, title I, § 108(a)–(e), (g), Aug. 22, 1974, 88 Stat. 647–649.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (d), is Act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Such Act, referred to in subsec. (d), is the Second Liberty Bond Act.

CODIFICATION

Subsec. (f) was, in the original, subsec. (g) and has been designated as (f) for purposes of codification. Subsec. (f) of section 108 of Pub. L. 93–383 amended section 711(22) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 711.

§ 5309. Nondiscrimination in programs and activities.

(a) Prohibited conduct.

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter.

(b) Compliance procedures available to Secretary.

Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this chapter has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964; (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

(c) Civil action by Attorney General.

When a matter is referred to the Attorney General pursuant to subsection (b) of this section or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief. (Pub. L. 93–383, title I, § 109, Aug. 22, 1974, 88 Stat. 649.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in subsec. (b), is classified to section 2000d et seq. of this title.

§ 5310. Labor standards; rate of wages; exceptions; enforcement powers.

All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended: *Provided*, That this section shall apply to the rehabilitation of residential property only if such property is designed for residential use for eight or more families. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (Pub. L. 93–383, title I, § 110, Aug. 22, 1974, 88 Stat. 649.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5311. Remedies for noncompliance with community development requirements.

(a) Notice and hearing; termination, reduction, or limitation of payments by Secretary.

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this chapter has failed to comply substantially with any provision of this chapter, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this chapter, or

(2) reduce payments to the recipient under this chapter by an amount equal to the amount of such payments which were not expanded in accordance with this chapter, or

(3) limit the availability of payments under this chapter to programs, projects, or activities not affected by such failure to comply.

(b) Referral of matters to Attorney General; institution of civil action by Attorney General.

(1) In lieu of, or in addition to, any action authorized by subsection (a) of this section, the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this chapter, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this

chapter which was not expended in accordance with it, or for mandatory or injunctive relief.

(c) Petition for review of action of Secretary in Court of Appeals; filing of record of proceedings in court by Secretary; affirmance, etc., of findings of Secretary; exclusiveness of jurisdiction of court; review by Supreme Court on writ of certiorari or certification.

(1) Any recipient which receives notice under subsection (a) of this section of the termination, reduction, or limitation of payments under this chapter may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of Title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendation, if any, for the modification or setting aside of his original action.

(4) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of Title 28. (Pub. L. 93–383, title I, § 111, Aug. 22, 1974, 88 Stat. 650.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5309 of this title.

§ 5312. Use of grants for settlement of outstanding urban renewal loans of units of general local government; limitation on amounts; prerequisites; financial settlement of urban renewal project; approval by Secretary.

(a) The Secretary is authorized, notwithstanding any other provision of this chapter, to apply a portion of the grants, not to exceed 20 per centum thereof without the request of the recipient, made or to be made under section 5303(a) of this title in any fiscal year pursuant to an allocation under section 5306 of this title to any unit of general local government toward payment of the principal of, and accrued interest on, any temporary loan made in connection with urban renewal projects under title I of the Housing Act of 1949 being carried out within the jurisdiction of such unit of general local government if—

(1) the Secretary determines, after consultation with the local public agency carrying out the project and the chief executive of such unit of general local government, that the project cannot be completed without additional capital grants, or

(2) the local public agency carrying out the project submits to the Secretary an appropriate request which is concurred in by the governing body of such unit of general local government.

In determining the amounts to be applied to the payment of temporary loans, the Secretary shall make an accounting for each project taking into consideration the costs incurred or to be incurred, the estimated proceeds upon any sale or disposition of property, and the capital grants approved for the project.

(b) Upon application by any local public agency carrying out an urban renewal project under title I of the Housing Act of 1949, which application is approved by the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of such project if he finds that a surplus of capital grant funds after full repayment of temporary loan indebtedness will result and may authorize the unit of general local government to use such surplus funds, without deduction or offset, in accordance with the provisions of this chapter. (Pub. L. 93–383, title I, § 112, Aug. 22, 1974, 88 Stat. 650.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, referred to in text, is classified to section 1450 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5316 of this title.

§ 5313. Reporting requirements.

(a) Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this chapter; and

(2) a summary of the use of such funds as approved by the Secretary during the preceding fiscal year.

(b) The Secretary is authorized to require recipients of assistance under this chapter to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a) of this section. (Pub. L. 93–383, title I, § 113, Aug. 22, 1974, 88 Stat. 651.)

§ 5314. Consultation by Secretary with other Federal departments, etc.

In carrying out the provisions of this chapter including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs. (Pub. L. 93–383, title I, § 114, Aug. 22, 1974, 88 Stat. 651.)

§ 5315. Interstate agreements or compacts; purposes.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective. (Pub. L. 93–383, title I, § 115, Aug. 22, 1974, 88 Stat. 651.)

§ 5316. Transition provisions.

(a) Prohibition on new grants or loans after January 1, 1975; exceptions.

Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966, (2) title I of the Housing Act of 1949, (3) section 3102 or 3103 of this title, (4) title II of the Housing Amendments of 1955, or (5) title VII of the Housing Act of 1961.

(b) Deductions from grants for fiscal year 1975; construction of appropriations for fiscal year 1975.

To the extent that grants under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966 are payable from appropriations made for the fiscal year 1975, and are made with respect to a project or program being carried on in any unit of general local government which is eligible to receive a grant for such fiscal year under section 5306 (a) or (h) of this title, the amount of such grants made under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be deducted from the amount of grants which such unit of general local government is eligible to receive for the fiscal year 1975 under such section 5306 (a) or (h) of this title. The deduction required by the preceding sentence shall be disregarded in determining the amount of grants made to any unit of general local government that may be applied, pursuant to section 5312 of this title, to payment of temporary loans in connection with urban renewal projects under title I of the Housing Act of 1949. The amount of any appropriations made for the fiscal year 1975 which is used for grants so as to be subject to the provisions of this subsection relating to deductions shall be deemed to have been appropriated for grants pursuant to section 5303(a) of this title for such fiscal year for purposes of calculations under sections 5306 and 5307 of this title.

(c) Advances for program period beginning January 1, 1975.

With respect to the program period beginning January 1, 1975, the Secretary may, without regard to the requirements of section 5304 of this title, advance to any metropolitan city, urban county or other unit of general local government, out of the amount allocated to such entity pursuant to section 5306 (a) or (h) of this title, an amount not to exceed 10 per centum of the amount so allocated which shall be available only for use (1) to continue projects or programs referred to in clauses (1) and (2) of subsection (a) of this section, or (2) to plan and prepare for the implementation of activities to be assisted under this chapter.

(d) Final date in fiscal year for submission of application for grant; establishment by Secretary.

In the case of funds available for any fiscal year, the Secretary shall not consider any application from a metropolitan city or urban county for a grant pursuant to section 5306(a) of this title or from a unit of general local government for a grant pursuant to section 5306(h) of this title unless such application is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of applications for such grants in that year. (Pub. L. 93–383, title I, § 116 (a), (b), (f), (g), Aug. 22, 1974, 88 Stat. 652, 653.)

REFERENCES IN TEXT

Title I of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsecs. (a) and (b), is classified to section 3301 et seq. of this title.

Title I of the Housing Act of 1949, referred to in subsecs. (a) and (b), is classified to sections 1450 et seq. of this title.

Title II of the Housing Amendments of 1955, referred to in subsec. (a), is classified to section 1491 et seq. of this title.

Title VII of the Housing Act of 1961, referred to in subsec. (a), is classified to section 1500 et seq. of this title.

CODIFICATION

Subsecs. (c) and (d) were, in the original, subsecs. (f) and (g) and have been designated as (c) and (d) for purposes of codification. Subsec. (c) of section 116 of Pub. L. 93–383 amended section 1453(b) of this title, subsec. (d) of such section amended section 3311 (b) and (c) of this title, and subsec. (e) of such section amended section 1452b(a) and (h) of this title.

§ 5317. Liquidation of superseded or inactive programs.

The Secretary is authorized to transfer the assets and liabilities of any program which is superseded or inactive by reason of this chapter to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act of 1965. (Pub. L. 93–383, title I, § 117(b), Aug. 22, 1974, 88 Stat. 653.)

REFERENCES IN TEXT

Title II of the Independent Offices Appropriation Act of 1965, referred to in text, in the original read "title II of the Independent Offices Appropriation Act of 1965 (Public Law 81–428; 68 Stat. 272, 295)" and was probably meant by Congress to read "title II of the Independent Offices Appropriation Act of 1955". For distribution of such Act in the Code, see Tables volume.

Chapter 70.—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS [NEW]

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§ 5401. Congressional declaration of purposes.

The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from mobile home accidents and to improve the quality and durability of mobile homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for mobile homes and to authorize mobile home safety research and development. (Pub. L. 93–383, title VI, § 602, Aug. 22, 1974, 88 Stat. 700.)

EFFECTIVE DATE

Section 628 of Pub. L. 93–383 provided that: "The provisions of this title [enacting this chapter and provision set out as a note under this section] shall take effect upon the expiration of 180 days following the date of enactment of this title [Aug. 22, 1974]."

SHORT TITLE

Section 601 of Pub. L. 93–383 provided that: "This title [which enacted this chapter and provision set out as a note under this section] may be cited as the 'National Mobile Home Construction and Safety Standards Act of 1974'."

§ 5402. Definitions.

As used in this chapter, the term—

(1) "mobile home construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety;

(2) "dealer" means any person engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of mobile homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale;

(6) "mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;

(7) "Federal mobile home construction and safety standard" means a reasonable standard for the construction, design, and performance of a mobile home which meets the needs of the public including the need for quality, durability, and safety;

(8) "mobile home safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa; and

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(Pub. L. 93–383, title VI, § 603, Aug. 22, 1974, 88 Stat. 700.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5403. Construction and safety standards.

(a) Establishment pursuant to orders of Secretary; consultation with Consumer Product Safety Commission; reasonableness; consideration of State and local laws.

The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal mobile home construction and safety standards. Each such Federal mobile home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to mobile home safety and construction.

(b) Notice and hearing.

All orders issued under this section shall be issued after notice and an opportunity for interested persons to participate are provided in accordance with the provisions of section 553 of Title 5.

(c) Effective date of orders establishing standards.

Each order establishing a Federal mobile home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Supremacy of Federal standards.

Whenever a Federal mobile home construction and safety standard established under this chapter is in effect, no State or political subdivision of a

State shall have any authority either to establish, or to continue in effect, with respect to any mobile home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such mobile home which is not identical to the Federal mobile home construction and safety standard.

(e) Amendment or revocation by Secretary; effective date.

The Secretary may by order amend or revoke any Federal mobile home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, than [1] an earlier or later date is in the public interest, and publishes his reasons for such finding.

(f) Criteria.

In establishing standards under this section, the Secretary shall—

(1) consider relevant available mobile home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable for the particular type of mobile home or for the geographic region for which it is prescribed;

(4) consider the probable effect of such standard on the cost of the mobile home to the public; and

(5) consider the extent to which any such standard will contribute to carrying out the purposes of this chapter.

(g) Time for issuance of order establishing initial standards.

The Secretary shall issue an order establishing initial Federal mobile home construction and safety standards not later than one year after August 22, 1974. (Pub. L. 93–383, title VI, § 604, Aug. 22, 1974, 88 Stat. 701.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5405, 5406, 5414, 5420, 5422 of this title.

§ 5404. National Mobile Home Advisory Council.

(a) Appointment; composition; appointments without regard to civil service laws; publication of names of members and designation of members representing general public.

The Secretary shall appoint a National Mobile Home Advisory Council with the following composition: eight members selected from among consumer organizations, community organizations, and recognized consumer leaders; eight members from the mobile home industry and related groups including at least one representative of small business; and eight members selected from government agencies including Federal, State, and local governments. Appointments under this subsection shall be made without regard to the provisions of Title 5 relating to appointments in the competitive service, classification, and General Schedule pay rates. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public.

(b) Consultation by Secretary with Council prior to establishment, etc., of standards.

The Secretary shall, to the extent feasible, consult with the Advisory Council prior to establishing, amending, or revoking any mobile home construction or safety standard pursuant to the provisions of this chapter.

(c) Compensation; per diem; travel expenses.

Any member of the National Mobile Home Advisory Council who is appointed from outside the Federal Government may be compensated at a rate not to exceed $100 per diem (including travel-time) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistance as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently. (Pub. L. 93–383, title VI, § 605, Aug. 22, 1974, 88 Stat. 702.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5405. Judicial review of orders establishing standards; petition; additional evidence before Secretary; certified copy of transcript.

(a)(1) In a case of actual controversy as to the validity of any order under section 5403 of this title, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of Title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additonal evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may

[1] So in original. Probably should be "that".

seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of Title 5, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in while or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a) of this section. (Pub. L. 93–383, title VI, § 606, Aug. 22, 1974, 88 Stat. 702.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5406. Submission of cost or other information by manufacturer.

(a) Purpose of submission; detail of information.

Whenever any manufacturer is opposed to any action of the Secretary under section 5403 of this title or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement.

(b) Conditions upon availability to public of submitted information.

Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) Establishment, etc., of standards on basis of submitted informaton; publication of notice in Federal Register by Secretary to allow comment by interested parties.

If the Secretary proposes to establish, amend, or revoke a Federal mobile home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment.

(d) Definitions.

For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(e) Power of Secretary to obtain or require submission of information under other provisions unaffected.

Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter. (Pub. L. 93–383, title VI, § 607, Aug. 22, 1974, 88 Stat. 703.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5407. Research, testing, development, and training by Secretary; scope; contracts and grants with States, interstate agencies, and independent institutions.

(a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between mobile home performance characteristics and (A) accidents involving mobile homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other mobile homes for research and testing purposes; and

(3) selling or otherwise disposing of test mobile homes and reimbursing the proceeds of such sale

or disposal into the current appropriation available for the purpose of carrying out this chapter.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions. (Pub. L. 93–383, title VI, § 608, Aug. 22, 1974, 88 Stat. 704.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5408. Cooperation by Secretary with public and private agencies.

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) mobile home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with mobile homes standards.

(Pub. L. 93–383, title VI, § 609, Aug. 22, 1974, 88 Stat. 704.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5409. Prohibited acts; exemptions.

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any mobile home which is manufactured on or after the effective date of any applicable Federal mobile home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b) of this section, where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 5413 of this title;

(3) fail to furnish notification of any defect as required by section 5414 of this title;

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a mobile home conforms to all applicable Federal mobile home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(5) fail to comply with a final order issued by the Secretary under this chapter.

(b)(1) Paragraph (1) of subsection (a) of this section shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) of this section shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such mobile home is not in conformity with applicable Federal mobile home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such mobile home to the effect that such mobile home conforms to all applicable Federal mobile home construction and safety standards, unless such person knows that such mobile home does not so conform.

(3) A mobile home offered for importation in violation of paragraph (1) of subsection (a) of this section shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such mobile home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such mobile home will be brought into conformity with any applicable Federal mobile home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any mobile home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) of this section shall not apply in the case of a mobile home intended solely for export, and so labeled or tagged on the mobile home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal mobile home construction or safety standard issued under this chapter does not exempt any person from any liability under common law. (Pub. L. 93–383, title VI, § 610, Aug. 22, 1974, 88 Stat. 704.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5410 of this title.

§ 5410. Civil and criminal penalties.

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order issued thereunder, shall be liable to the United States for a civil penalty of not to exceed $1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 5409 of this title in a manner which threatens the health or safety of any purchaser shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Pub. L. 93–383, title VI, § 611, Aug. 22, 1974, 88 Stat. 705.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5411, 5422 of this title.

§ 5411. Injunctive relief.

(a) Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views.

The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any mobile home which is determined, prior to the first purchase of such mobile home in good faith for purposes other than resale, not to conform to applicable Federal mobile home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt proceedings; conduct of trial.

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue.

Actions under subsection (a) of this section and section 5410 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Subpoenas.

In any action brought by the United States under subsection (a) of this section or section 5410 of this title, subpenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation.

It shall be the duty of every manufacturer offering a mobile home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail. (Pub. L. 93–383, title VI, § 612, Aug. 22, 1974, 88 Stat. 705.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5412. Noncompliance with standards or defective nature of mobile home; administrative or judicial determination; repurchase by manufacturer or repair by distributor or dealer; reimbursement of expenses, etc., by manufacturer; injunctive relief against manufacturer for failure to comply; jurisdiction and venue; damages; period of limitation.

(a) If the Secretary or a court of appropriate jurisdiction determines that any mobile home does not conform to applicable Federal mobile home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such mobile home by a manufacturer to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer to a purchaser—

(1) the manufacturer shall immediately repurchase such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance

to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

(b) If any manufacturer fails to comply with the requirements of subsection (a) of this section, then the distributor or dealer, as the case may be, to whom such mobile home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorney's fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued. (Pub. L. 93–383, title VI, § 613, Aug. 22, 1974, 88 Stat. 706.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties.

(a) Authority of Secretary; results furnished to Attorney General and Secretary of Treasury for appropriate action.

The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal mobile home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b) Designation by Secretary of persons to enter and inspect factories, etc.; presentation of credentials; reasonableness and scope of inspection.

(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which mobile homes are manufactured, stored, or held, for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c) of this section. Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) Powers of Secretary.

For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to mobile home construction or safety or of the failure of a mobile home to comply with applicable mobile home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

(d) Refusal to obey subpoena or order of Secretary; order of compliance by district court; failure to obey order of compliance punishable as contempt.

Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to

obey a subpena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Submission by manufacturer of building plans for mobile homes; certification by manufacturer of conformity of building plans to standards.

Each manufacturer of mobile homes shall submit the building plans for every model of such mobile homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Records, reports and information from manufacturers, distributors and dealers of mobile homes; inspection and examination of relevant books, papers, records and documents by designated person.

Each manufacturer, distributor, and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter and Federal mobile home construction and safety standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter and mobile home construction and safety standards prescribed pursuant to this chapter.

(g) Performance and technical data from manufacturer; persons required to receive notification of data.

Each manufacturer of mobile homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a mobile home before its first sale for purposes other than resale, at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a mobile home for purposes other than resale, at the time of such purchase or in printed matter placed in the mobile home.

(h) Disclosure of confidential information and trade secrets.

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g) of this section which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress. (Pub. L. 93–383, title VI, § 614, Aug. 22, 1974, 88 Stat. 707.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5414, 5422 of this title.

§ 5414. Notification and correction of defects by manufacturer.

(a) Notice to purchaser within reasonable time after discovery of defect.

Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, relates to a Federal mobile home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such mobile home, within a reasonable time after such manufacturer has discovered such defect.

(b) Notification by mail.

The notification required by subsection (a) of this section shall be accomplished—

(1) by mail to the first purchaser (not including any dealer or distributor of such manufacturer) of the mobile home containing the defect, and to any subsequent purchaser to whom any warranty on such mobile home has been transferred;

(2) by mail to any other person who is a registered owner of such mobile home and whose name and address has been ascertained pursuant to procedures established under subsection (f) of this section; and

(3) by mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(c) Form and requisites of notification.

The notification required by subsection (a) of this section shall contain a clear description of such defect or failure to comply, an evaluation of the risk to mobile home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the

mobile home under subsection (g) of this section or otherwise, or is a defect which must be corrected at the expense of the owner.

(d) Copy to Secretary of all notices, bulletins, and communications sent by manufacturer to dealers and purchasers concerning defects; disclosure to public by Secretary.

Every manufacturer of mobile homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of mobile homes of such manufacturer regarding any defect in any such mobile home produced by such manufacturer. The Secretary shall disclose to the public so much of the information contained in such notices or other information obtained under section 5413 of this title as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this chapter.

(e) Notice by Secretary to manufacturers of noncompliance with standards or defective nature of mobile home; contents of notice; presentation by manufacturer of views; notice to purchasers of defects.

If the Secretary determines that any mobile home—

(1) does not comply with an applicable Federal mobile home construction and safety standard prescribed pursuant to section 5403 of this title; or

(2) contains a defect which constitutes an imminent safety hazard,

then he shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such mobile home does not comply with applicable Federal mobile home construction or safety standards, or contains a defect which constitutes an imminent safety hazard, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Maintenance by manufacturer of record of names and addresses of first purchasers of mobile homes; procedures for ascertaining names and addresses of subsequent purchasers; establishment and reasonableness of procedures for maintaining records.

Every manufacturer of mobile homes shall maintain a record of the name and address of the first purchaser of each mobile home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reasonable for the particular type of mobile home for which they are prescribed.

(g) Correction of defects by manufacturer; conditions; procedures; contract or legal rights of purchasers or other persons unaffected.

A manufacturer required to furnish notification of a defect under subsection (a) or (e) of this section shall also bring the mobile home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

(1) the defect presents an unreasonable risk of injury or death to occupants of the affected mobile home or homes;

(2) the defect can be related to an error in design or assembly of the mobile home by the manufacturer.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(h) Submission to Secretary by manufacturer of plan for notifying owners of defects and repair of defects; approval of manufacturer's remedy plan; effectuation and implementation of remedy plan.

The manufacturer shall submit his plan for notifying owners of the defect and for repairing such defect (if required under subsection (g) of this section) to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) of this section to correct a defect, the Secretary shall approve with or without modification, after consultation with the manufacturer of the mobile home involved, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Defective or inadequately repaired mobile homes; replacement with new or equivalent home or refund of purchase price.

Where a defect or failure to comply in a mobile home cannot be adequately repaired within sixty days from the date of discovery or determination of the defect, the Secretary may require that the mobile home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one

year. (Pub. L. 93–383, title VI, § 615, Aug. 22, 1974, 88 Stat. 709.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5422 of this title.

§ 5415. Certification by manufacturer of conformity of mobile home with standards; form and placement of certification.

Every manufacturer of mobile homes shall furnish to the distributor or dealer at the time of delivery of each such mobile home produced by such manufacturer certification that such mobile home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such mobile home. (Pub. L. 93–383, title VI, § 616, Aug. 22, 1974, 88 Stat. 711.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5409 of this title.

§ 5416. Consumer's manual; contents.

The Secretary shall develop guidelines for a consumer's manual to be provided to mobile home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their mobile homes. (Pub. L. 93–383, title VI, § 617, Aug. 22, 1974, 88 Stat. 711.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5417. Effect upon antitrust laws.

Nothing contained in this chapter shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 14, 1914,[1] as amended; the Federal Trade Commission Act (section 41 et seq. of Title 15); and sections 73 and 74 of the Act of August 27, 1894, as amended. (Pub. L. 93–383, title VI, § 618, Aug. 22, 1974, 88 Stat. 711.)

REFERENCES IN TEXT

The antitrust laws of the United States, referred to in text, are classified generally to chapter 1 of Title 15, Commerce and Trade.

Act of July 2, 1890, as amended, referred to in text, popularly known as the Sherman Antitrust Act, is classified to sections 1 to 7 of Title 15.

Act of October 14, 1914, as amended, referred to in text, probably means the act popularly known as the Clayton Act, which is classified to sections 12 to 22 of Title 15, and which was enacted on October 15, 1914.

[1] So in original. Probably should be "October 15, 1914".

Sections 73 and 74 of the Act of August 27, 1894, as amended, referred to in text, are classified to sections 8 and 9 of Title 15, respectively.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5418. Use of services, research and testing facilities of public agencies and independent laboratories.

The Secretary, in exercising the authority under this chapter, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication. (Pub. L. 93–383, title VI, § 619, Aug. 22, 1974, 88 Stat. 711.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5419. Inspection fees.

In carrying out the inspections required under this chapter, the Secretary may establish and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, except that this section shall not apply in any State which has in effect a State plan under section 5422 of this title. (Pub. L. 93–383, title VI, § 620, Aug. 22, 1974, 88 Stat. 712.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5420. Failure to report violations; penalties.

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 5422 of this title, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 5403 of this title may be fined up to $1,000 or imprisoned for up to one year, or both. (Pub. L. 93–383, title VI, § 621, Aug. 22, 1974, 88 Stat. 712.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5421. Prohibition on waiver of rights.

The rights afforded mobile home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void. (Pub. L. 93–383, title VI, § 622, Aug. 22, 1974, 88 Stat. 712.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5422. State enforcement.

(a) Jurisdiction of State agency or court under State law.

Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any mobile home construction or safety issue with respect to which no Federal mobile

home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Assumption of responsibility for enforcement of Federal standards; submission of enforcement plan to Secretary.

Any State which, at any time, desires to assume responsibility for enforcement of mobile home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) Criteria for approval of State plan by Secretary.

The Secretary shall approve the plan submitted by a State under subsection (b) of this section, or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of mobile home safety and construction standards promulgated under section 5403 of this title;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which mobile homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 5413 of this title;

(4) provides for the imposition of the civil and criminal penalties under section 5410 of this title;

(5) provides for the notification and correction procedures under section 5414 of this title;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and dealers in such State to make reports to the Secretary in the manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency or agencies will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require; and

(11) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) Notice and hearing prior to rejection by Secretary of State plan.

If the Secretary rejects a plan submitted under subsection (b) of this section, he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) Discretionary enforcement by Secretary of standards in State having approved plan.

After the Secretary approves a State plan submitted under subsection (b) of this section, he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of mobile home construction and safety standards in the State involved.

(f) Annual evaluation by Secretary of execution of State plan; basis of evaluation; submission of evaluation and data to Congress; determination by Secretary of improper administration, etc., of State plan; procedure; effect of determination.

The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency or agencies such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce mobile home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan. (Pub. L. 93–383, title VI, § 623, Aug. 22, 1974, 88 Stat. 712.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5419, 5420, 5423 of this title.

§ 5423. Grants to States.

(a) Purposes.

The Secretary is authorized to make grants to the States which have designated a State agency under section 5422 of this title to assist them—

(1) in identifying their needs and responsibilities in the area of mobile home construction and safety standards; or

(2) in developing State plans under section 5422 of this title.

(b) Designation by Governor of State agency for receipt of grant.

The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Submission of application by State agency to Secretary; review by Secretary.

Any State agency designated by the Governor of a State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) Amount of Federal share; equality of distribution of funds.

The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria. (Pub. L. 93–383, title VI, § 624, Aug. 22, 1974, 88 Stat. 713.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5424. Rules and regulations.

The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this chapter. (Pub. L. 93–383, title VI, § 625, Aug. 22, 1974, 88 Stat. 713.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5425. Reports to Congress.

(a) Contents of annual report.

The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents, injuries, deaths, and property losses occurring in or involving mobile homes in such year; (2) a list of Federal mobile home construction and safety standards prescribed or in effect in such year; (3) the level of compliance with all applicable Federal mobile home standards; (4) a summary of all current research grants and contracts together with a description of the problems to be studied in such research; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; (6) a statement of enforcement actions including judicial decisions, settlements, defect notifications, and pending litigation commenced during the year; and (7) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to mobile home owners and prospective buyers.

(b) Recommendations of annual report.

The report required by subsection (a) of this section shall contain such recommendations for additional or revised legislation as the Secretary deems necessary to promote the improvement of mobile home construction and safety and to strengthen the national mobile home program.

(c) Study and report of State inspection requirements and procedures for used mobile homes; time for submission; contents and recommendations of report.

In order to assure a continuing and effective national mobile home construction and safety program, it is the policy of Congress to encourage the adoption of State inspection of used mobile homes. Therefore, to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of mobile home construction and safety standards and mobile home inspection requirements and procedures applicable to used mobile homes in each State, and the effect of programs authorized by this chapter upon such standards, requirements, and procedures for used mobile homes, and report to Congress as soon as practicable, but not later than one year after August 22, 1974, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this chapter. Such report shall also include recommendations by the Secretary relating to the problems of disposal of used mobile homes. (Pub. L. 93–383, title VI, § 626, Aug. 22, 1974, 88 Stat. 74.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§ 5426. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter. (Pub. L. 93–383, title VI, § 627, Aug. 22, 1974, 88 Stat. 714.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 628 of Pub. L. 93–383, set out as a note under section 5401 of this title.

Chapter 71.—SOLAR ENERGY [NEW]

SUBCHAPTER I.—HEATING AND COOLING

Sec.

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(e) Coordination of activities to assure a realistic and effective demonstration.
5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings.
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Sec.
5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings—Continued
(e) Installation of combined systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system; reports by owner.
(f) Installation of combined systems by Secretary of Defense in dwellings located on Federal or federally administered property.
(g) Coordination of activities to assure a realistic and effective demonstration.
5505. Plan by Administrator and Secretary for conduct of development and demonstration activities; preparation; consultation with Federal agencies and private organizations; transmittal to President and Congress.
5506. Test procedures and definitive performance criteria for solar heating and combined solar heating and cooling components and systems and suitable dwellings; determination, consultation and publication in Federal Register.
5507. Arrangements with Federal agencies for development and demonstration of solar heating and combined heating and cooling systems for commercial buildings.
5508. Program of applied research by Director for improvement and development of heating systems for commercial application; transmission of results to Secretary and Administrator.
5509. Supervision of systems and programs by Secretary.
(a) Monitoring of performance; collection and evaluation data; studies and investigation reports to Congress.
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(c) Continued liaison with building and related industries and scientific and technical communities.
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SUBCHAPTER I.—HEATING AND COOLING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5553, 5903, 5905 of this title.

TRANSFER OF FUNCTIONS

Functions of the National Science Foundation relating to or are utilized in connection with solar heating and cooling development transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814(f) of this title.

§ 5501. Congressional findings and declaration of policy.

(a) The Congress hereby finds that—

(1) the current imbalance between supply and demand for fuels and energy is likely to persist for sometime;

(2) the early demonstration of the feasibility of using solar energy for the heating and cooling of buildings could help to relieve the demand upon present fuel and energy supplies;

(3) the technologies for solar heating are close to the point of commercial application in the United States;

(4) the technologies for combined solar heating and cooling still require research, development, testing and demonstration, but no insoluble technical problem is now foreseen in achieving commercial use of such technologies;

(5) the early development and export of viable solar heating equipment and combined solar heating and cooling equipment, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(6) the widespread use of solar energy in place of conventional methods for the heating and cooling of buildings would have a significantly beneficial effect upon the environment;

(7) the mass production and use of solar heating and cooling equipment will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) the widespread introduction of low-cost solar energy will be beneficial to consumers in a period of rapidly rising fuel cost;

(9) innovation and creativity in the development of solar heating and combined solar heating and cooling components and systems can be fostered through encouraging direct contact between the manufacturers of such systems and the architects, engineers, developers, contractors, and other persons interested in installing such systems in buildings;

(10) evaluation of the performance and reliability of solar heating and combined solar heating and cooling technologies can be expedited by testing under carefully controlled conditions; and

(11) commercial application of solar heating and combined solar heating and cooling technologies can be expedited by early commercial demonstration under practical conditions.

(b) It is therefore declared to be the policy of the United States and the purpose of this subchapter to provide for the demonstration within a three-year period of the practical use of solar heating technology, and to provide for the development and demonstration within a five-year period of the practical use of combined heating and cooling technology.

(Pub. L. 93–409, § 2, Sept. 3, 1974, 88 Stat. 1069.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–409 provided "That this Act [enacting this subchapter and amending section 2473 of this title] may be cited as the 'Solar Heating and Cooling Demonstration Act of 1974'."

§ 5502. Definitions.

For purposes of this subchapter—

(1) the term "solar heating", with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water), or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods), as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration;

(2) the terms "solar heating and cooling" and "combined solar heating and cooling", with respect to any building, mean the use of solar energy to provide both such portion of the total heating needs of such building (including hot water) and such portion of the total cooling needs of such building, or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods) and such portion of the total cooling needs of a building, as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration, and such term includes cooling by means of nocturnal heat radiation, by evaporation, or by other methods of meeting peakload energy requirements at nonpeakload times;

(3) the term "residential dwellings" includes previously occupied and new single family and multifamily dwellings, mobile homes, and publicly assisted housing owned by a private sponsor or a State or local housing authority not covered by section 5515 of this title;

(4) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(5) the term "Secretary" means the Secretary of Housing and Urban Development; and

(6) the term "Director" means the Director of the National Science Foundation.

(Pub. L. 93–409, § 3, Sept. 3, 1974, 88 Stat. 1070.)

REFERENCES IN TEXT

"This subchapter", referred to in opening paragraph, was in the original "this Act", referring to Pub. L. 93–409, which enacted this subchapter and amended section 2473 of this title.

§ 5503. Development and demonstration of solar heating systems for use in residential dwellings.

(a) Functions of Administrator and Secretary.

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of solar heating systems (including

collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings.

(1) Within 120 days after September 3, 1974, the Secretary, utilizing the services of the Director of the National Bureau of Standards and in consultation with the Administrator and the Director, shall determine, prescribe, and publish—

(A) interim performance criteria for solar heating components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1), the Secretary, in consultation with the Director of the National Bureau of Standards and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of solar heating systems meeting the performance criteria prescribed under paragraph (1)(A).

(c) Contracts and grants for development of heating systems for commercial production and residential use; contracts for procurement of heating systems and components.

The Administrator, in accordance with the applicable provisions of title II of the National Aeronautics and Space Act of 1958 and under program guidelines established jointly by the Administrator and the Secretary, shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of solar heating systems meeting the performance criteria prescribed under subsection (b)(1)(A) of this section (including any further planning and design which may be required to conform with the specifications set forth in such criteria); and

(2) enter into contracts with a number of persons or firms for the procurement of solar heating components and systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(d) Installation of heating systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system for five years; reports by owner.

The Secretary shall (1) arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) of this section in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of solar heating systems installed hereunder may be conveyed to purchasers or owners of such dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(e) Installation of heating systems by Secretary of Defense in dwellings located on Federal or federally administered property.

The Secretary of Defense shall arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) of this section in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(f) Coordination of activities to assure a realistic and effective demonstration.

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that solar heating systems are installed in a substantial number of residential dwellings and in a sufficient number of different geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter. (Pub. L. 93–409, § 5, Sept. 3, 1974, 88 Stat. 1070.)

REFERENCES IN TEXT

Title II of the National Aeronautics and Space Act of 1958, referred to in subsec. (c), is classified to section 2471 et seq. of this title.

"This subchapter", referred to in subsec. (f), was in the original "this Act", referring to Pub. L. 93–409, which enacted this subchapter and amended section 2473 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5505, 5506, 5507, 5509, 5511, 5513 of this title.

§ 5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings.

(a) Functions of Administrator and Secretary.

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of combined solar heating and cooling systems (including collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings.

(1) As soon as possible after September 3, 1974, the Secretary, utilizing the services of the Director

of the National Bureau of Standards and in consultation with the Administrator and the Director, shall determine, prescribe, and publish—

(A) interim performance criteria for combined solar heating and cooling components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating and cooling) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1) (and if possible before the completion of the research and development provided for in subsection (c) of this section), the Secretary, in consultation with the Director of the National Bureau of Standards and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of combined solar heating and cooling systems meeting the performance criteria prescribed under paragraph (1) (A).

(c) Program of research, development and testing to provide additional technological resources for development and commercial application of combined systems.

During the period immediately following the publication of performance criteria under subsection (b) (1) of this section, the Administrator, in coordination with the Director, shall undertake and conduct with respect to solar heating and cooling a program of research, development, and testing designed to provide the additional technological resources necessary for the development and commercial application of combined solar heating and cooling systems as contemplated by the program under this section.

(d) Contracts and grants for development of combined systems for commercial production and residential use; contracts for procurement of combined systems.

The Administrator, in accordance with the applicable provisions of title II of the National Aeronautics and Space Act of 1958 and under program guidelines established jointly by the Administrator and the Secretary, and at the earliest possible time during or immediately after the period specified in subsection (c) of this section, shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of combined solar heating and cooling systems meeting the performance criteria prescribed under subsection (b) (1) (A) of this section (including any further planning and design work that may be required to conform with the specifications set forth in such criteria or to reflect the results of the activities conducted under subsection (c) of this section); and

(2) enter into contracts with a number of persons or firms for the procurement of combined solar heating and cooling systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(e) Installation of combined systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system; reports by owner.

The Secretary shall (1) arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d) (2) of this section in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of combined solar heating and cooling systems installed hereunder may be conveyed to purchasers or owners of such dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(f) Installation of combined systems by Secretary of Defense in dwellings located on Federal or federally administered property.

The Secretary of Defense shall arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d) (2) of this section in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(g) Coordination of activities to assure a realistic and effective demonstration.

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that combined solar heating and cooling systems are installed in a substantial number of residential dwellings and in a sufficient number of geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter. (Pub. L. 93–409, § 6, Sept. 3, 1974, 88 Stat. 1072.)

REFERENCES IN TEXT

Title II of the National Aeronautics and Space Act of 1958, referred to in subsec. (d), is classified to section 2471 et seq. of this title.

"This subchapter", referred to in subsec. (g), was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5505, 5506, 5507, 5509, 5511, 5513 of this title.

§ 5505. Plan by Administrator and Secretary for conduct of development and demonstration activities; preparation; consultation with Federal agencies and private organizations; transmittal to President and Congress.

(a) The Administrator and the Secretary are authorized and directed to prepare a comprehensive plan for the conduct of the development and demonstration activities under sections 5503 and 5504 of this title. In the preparation of such plan, the Administrator and Secretary shall consult with the Director of the National Bureau of Standards, the Director, the Secretary of Defense, and other Federal agencies and private organizations as appropriate.

(b) The Administrator and the Secretary shall transmit such comprehensive program plan to the President and to each House of the Congress. The plan shall be transmitted within 120 days after September 3, 1974. (Pub. L. 93–409, § 7, Sept. 3, 1974, 88 Stat. 1073.)

§ 5506. Test procedures and definitive performance criteria for solar heating and combined solar heating and cooling components and systems and suitable dwellings; determination, consultation and publication in Federal Register.

As soon as feasible, and utilizing data available from the demonstration programs under sections 5503 and 5504 of this title, the Secretary, utilizing the services of the Director of the National Bureau of Standards and in consultation with the Administrator and the Director shall determine, prescribe, and publish in the Federal Register in accordance with the applicable provisions regarding rulemaking prescribed by section 553 of Title 5,

(1) definitive performance criteria for solar heating and combined solar heating and cooling components and systems to be used in residential dwellings, taking into account climatic variations existing between different geographic areas;

(2) definitive performance criteria (relating to suitability for solar heating and for combined solar heating and cooling) for such dwellings, taking into account climatic variations existing between different geographic areas; and

(3) procedures whereby manufacturers of solar heating and combined solar heating and cooling components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under paragraph (1).

(Pub. L. 93–409, § 8, Sept. 3, 1974, 88 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5509 of this tile.

§ 5507. Arrangements with Federal agencies for development and demonstration of solar heating and combined heating and cooling systems for commercial buildings.

The Administrator, in consultation with the Secretary, the Director, the Administrator of General Services, and the Director of the National Bureau of Standards and concurrently with the conduct of the programs under sections 5503 and 5504 of this title, shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities (including demonstration projects) with respect to apartment buildings, office buildings, factories, crop-drying facilities and other agricultural structures, public buildings (including schools and colleges), and other non-residential, commercial, or industrial buildings, taking into account the special needs of and individual differences in such buildings based upon size, function, and other relevant factors, as may be appropriate for the early development and demonstration of solar heating and combined solar heating and cooling systems suitable and effective for use in such buildings. (Pub. L. 93–409, § 9, Sept. 3, 1974, 88 Stat. 1074.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5511, 5513 of this title.

§ 5508. Program of applied research by Director for improvement and development of heating systems for commercial application; transmission of results to Secretary and Administrator.

(a) The Director shall conduct a program of applied research relevant to (1) the improvement of solar heating components and systems and (2) the development and commercial application of combined solar heating and cooling components and systems as contemplated by the programs under this subchapter.

(b) The Director shall apprise the Secretary and the Administrator on a continuing basis of the results of the programs being conducted in accordance with subsection (a) of this section, and the Secretary and the Administrator shall insure that such results, where appropriate, are incorporated into the development and demonstration programs established by this subchapter. (Pub. L. 93–409, § 10, Sept. 3, 1974, 88 Stat. 1074.)

REFERENCES IN TEXT

"This subchapter", referred to in subsecs. (a) and (b), was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

§ 5509. Supervision of systems and programs by Secretary.

(a) Monitoring of performance; collection and evaluation of data; studies and investigation; reports to Congress.

The Secretary, utilizing the services of the Director of the National Bureau of Standards and in coordination with such other Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter;

(2) collect and evaluate data and information on the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter; and

(3) from time to time, carrying out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this subchapter effectively carry out the policy of this subchapter.

(b) Cooperation with scientific, technical, and professional societies and industry representatives in development of performance criteria and test procedures.

In the development of the performance criteria and test procedures required under sections 5503, 5504, and 5506 of this title, the Secretary shall work closely with the appropriate scientific, technical, and professional societies and industry representatives to insure the best possible use of available expertise in this area.

(c) Continued liaison with building and related industries and scientific and technical communities.

The Secretary shall also maintain continuing liaison with the building industry and related industries and interests, and with the scientific and technical community during and after the period of the programs carried out under this subchapter, in order to assure that the projected benefits of such programs are and will continue to be realized. (Pub. L. 93–409, § 11, Sept. 3, 1974, 88 Stat. 1074.)

REFERENCES IN TEXT

"This subchapter," referred to in text, was in the original "this Act", referring to Pub. L. 93–409, which enacted this subchapter and amended section 2473 of this title.

§ 5510. Dissemination of information to promote practical use of solar heating and cooling technologies.

(a) Coordination by Secretary with other Federal agencies in dissemination to Federal, State, and local authorities, etc.

The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this subchapter is made available to Federal, State, and local authorities, the building industry and related segments of the economy, the scientific and technical community, and the public at large, both during and after the close of the programs under this subchapter, with the objective of promoting and facilitating to the maximum extent feasible the early and widespread practical use of solar energy for the heating and cooling of buildings throughout the United States. In accordance with regulations prescribed under section 5514 of this title such information shall be disseminated on a coordinated basis by the Secretary, the Administrator, the Director of the National Bureau of Standards, the Director, the Commissioner of the Patent Office, and other appropriate Federal offices and agencies.

(b) Studies, investigations and modifications of buildings codes, zoning ordinances, etc., to promote use of solar energy in buildings.

In addition, the Secretary shall—

(1) study and investigate the effect of building codes, zoning ordinances, tax regulations, and other laws, codes, ordinances, and practices upon the practical use of solar energy for the heating and cooling of buildings;

(2) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use, and the methods by which any such changes may best be brought about; and

(3) study the necessity of a program of incentives to accelerate the commercial application of solar heating and cooling technology.

(c) Establishment and operation of Solar Heating and Cooling Information Data Bank; retrieval and dissemination services; compilation of information for use by governmental agencies, nonprofit organizations and private persons; utilization of existing information.

(1) In carrying out his functions under subsections (a) and (b) of this section the Secretary, utilizing the capabilities of the National Aeronautics and Space Administration, the Department of Commerce, and the National Science Foundation to the maximum extent possible, shall establish and operate a Solar Heating and Cooling Information Data Bank (hereinafter in this subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating solar heating and cooling information and data in a timely and accurate manner in support of the objectives of this subchapter.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertations, monographs, and project descriptions) on solar energy research, development, and applications;

(B) technical information on the design, construction, and maintenance of buildings compatible with solar heating and cooling concepts;

(C) physical and chemical properties of the materials required for solar heating and cooling;

(D) climatic conditions in appropriate areas of the United States, including those areas where the demonstrations are to be located; and

(E) engineering performance of devices utilized in solar heating and cooling or to be employed in the demonstrations.

(3) In accordance with regulations prescribed under section 5514 of this title, the Secretary shall provide retrieval and dissemination services to cover the solar heating and cooling information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities, colleges, and other nonprofit organizations; and

(C) private persons, upon request, in appropriate cases.

(4) In carrying out his functions under this subsection, the Secretary shall utilize, when feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base.

(d) Annual reports to President and Congress by officers and agencies; contents; special annual report by Secretary.

Each Federal officer and agency having functions under this subchapter shall include in his or its annual report to the President and the Congress a full and complete description of his or its activities (current and projected) under this subchapter,

along with his or its recommendations for legislative, administrative, or other action to improve the programs under this subchapter or to achieve the objectives of this subchapter more promptly and effectively. In addition, the Secretary shall submit annually to the President and the Congress a special report summarizing in appropriate detail all of the activities (current and projected) of the various Federal officers and agencies having functions under this subchapter, with the objective of presenting a comprehensive overall view of such programs. (Pub. L. 93–409, § 12, Sept. 3, 1974, 88 Stat. 1075.)

REFERENCES IN TEXT

"This subchapter", referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

§ 5511. Federally assisted or federally constructed housing.

(a) Maximum dollar amount of federally assisted mortgage loan or maximum per unit or other cost or floor area limitation of federally constructed housing.

(1) In determining the maximum dollar amount of any federally assisted mortgage loan (as defined in subsection (b) of this section or the maximum per unit or other cost or floor area limitation of any federally constructed housing (as defined in subsection (c) of this section), where the law establishing the program under which the loan is made or the housing is constructed specifies such maximum per unit or other cost on floor area limitation and the structure involved is furnished with solar heating or combined solar heating and cooling equipment under the demonstration program established by section 5503, 5504 and 5507 of this title, the maximum amount or cost or floor area limitation so specified which is applicable to such structure shall be deemed to be increased by the amount by which (as determined by the Secretary or the Secretary of Defense, as appropriate) the price or cost or floor area limitation of the structure including such solar heating or combined solar heating and cooling equipment exceeds the price or cost or floor area limitation of the structure with such equipment replaced by conventional heating equipment or conventional heating and cooling equipment (as the case may be).

(2) In addititon, in the case of a federally assisted mortgage loan, the cost excess specified in subsection (a) of this section shall be fully taken into account in determining the value or cost of the structure involved for purposes of applying any statutory provision specifying the maximum loan-to-value or -cost ratio; except that, if the law specifies different rates of downpayment for successive increments of such value or cost, the lowest such rate shall apply to the additional cost attributable to the solar heating or combined solar heating and cooling equipment, and such equipment shall otherwise be excluded in determining the total value or cost of the structure.

(b) Definition of "mortgage loans" and "federally assisted mortgage loans".

As used in subsection (a) of this section, the term "mortgage loan" means a loan which is made to finance the purchase or construction of a residence or any other building or structure; and the term "federally assisted mortgage loan" means a mortgage loan which—

(1) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(2) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing, urban development, or related program administered by the Secretary or a housing or related programing administered by any other such officer or agency; or

(3) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(4) is made in whole or in part by any "creditor," as defined in section 1602 (f) of Title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

(c) Definition of "federally constructed housing".

As used in subsection (a) of this section, the term "federally constructed housing" means (1) residential or multifamily housing which is constructed by agencies of the Federal Government to provide dwelling accommodations for particular types or classes of persons under programs administered by such Federal agencies (including all housing constructed by the Department of Defense to provide dwelling accommodations for personnel of the armed services or for such personnel and their families), and (2) residential or multifamily housing which is constructed by agencies of State or local government, with financial assistance in any form from the Federal Government, to provide dwelling accommodations for particular types or classes of persons under programs administered by such State or local agencies. (Pub. L. 93–409, §13, Sept. 3, 1974, 88 Stat. 1076.)

§ 5512. Small business concerns' opportunities to participate in programs.

In carrying out their functions under this subchapter, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this subchapter to the maximum extent possible. (Pub. L. 93–409, § 14, Sept. 3, 1974, 88 Stat. 1077.)

REFERENCES IN TEXT

"This subchapter," referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

§ 5513. Priorities and criteria of demonstration programs.

The Secretary shall set priorities as far as possible consistent with the intent and operation of this subchapter in accordance with the following criteria:

(a) The residential dwellings and other buildings which will be part of the demonstration programs

referred to in sections 5503, 5504, and 5507 of this title shall be located in a sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the solar heating systems and combined solar heating and cooling systems involved, and of the dwellings and other buildings themselves, in both rural and urban locations and under climatic conditions which vary as much as possible.

(b) Consideration shall be given to projected costs of commercial production and maintenance of the solar heating systems and combined solar heating and cooling systems utilized in the demonstration programs.

(c) Encouragement should be given in the conduct of programs under this subchapter to those projects in which funds, appropriated by any State or political subdivision thereof for the purpose of sharing costs with the Federal Government for the purchase and installation of solar heating or combined solar heating and cooling components and systems, are committed before or after September 3, 1974. (Pub. L. 93–409, § 15, Sept. 3, 1974, 88 Stat. 1077.)

REFERENCES IN TEXT

"This subchapter," referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

§ 5514. Regulations.

The Administrator and the Secretary in consultation with the Director of the National Bureau of Standards, the Director, the Administrator of the General Services Administration, the Secretary of Defense, and other appropriate officers and agencies shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter promptly and efficiently. Each such officer or agency, in consultation with the Administrator and the Secretary may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this subchapter promptly and efficiently. (Pub. L. 93–409, § 16, Sept. 3, 1974, 88 Stat. 1078.)

REFERENCES IN TEXT

"This subchapter," referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5510 of this title.

§ 5515. Use of publicly assisted housing by Secretary in demonstrations.

The Secretary shall make appropriate use of publicly assisted housing and particularly low-rent housing assisted under the United States Housing Act of 1937 in demonstrating solar heating systems and combined solar heating and cooling systems under this subchapter. (Pub. L. 93–409, § 17, Sept. 3, 1974, 88 Stat. 1078).

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is classified to section 1401 et seq. of this title.

"This subchapter", referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5502 of this title.

§ 5516. Transfer or functions.

Within sixty days after the effective date of the law creating the Energy Research and Development Administration or any other law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after September 3, 1974, if the effective date of such law occurs prior to the enactment of this subchapter), the energy research and development functions vested in the National Aeronautics and Space Administration and the National Science Foundation under this subchapter and any funds which may have been appropriated pursuant to section 5517 of this title, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in the Energy Research and Development Administration or such other organization or agency. (Pub. L. 93–409, § 18, Sept. 3, 1974, 88 Stat. 1078.)

REFERENCES IN TEXT

"This subchapter", referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

§ 5517. Authorization of appropriations.

(a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended, to carry out the functions vested in the Administrator by this subchapter.

(b) There is hereby authorized to be appropriated to the Department of Housing and Urban Development for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended. Any sums so appropriated shall be available (1) to carry out the functions vested in the Secretary of Housing and Urban Development by this subchapter, and (2) for transfer to the Department of Defense, the National Bureau of Standards, and the General Services Administration to enable them to carry out their respective functions under this subchapter.

(c) There is hereby authorized to be appropriated for the fiscal years ending June 30, 1976, 1977, 1978, and 1979, $50,000,000 in the aggregate to carry out the programs established by this subchapter. (Pub. L. 93–409, § 19, Sept. 3, 1974, 88 Stat. 1078.)

REFERENCES IN TEXT

"This subchapter", referred to in text, was in the original "this Act", referring to Pub. L. 93–409 which enacted this subchapter and amended section 2473 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5516 of this title.

SUBCHAPTER II.—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5902, 5905 of this title.

§ 5551. Congressional declaration of findings and policy.

(a) The Congress hereby finds that—

(1) the needs of a viable society depend on an ample supply of energy.

(2) the current imbalance between domestic supply and demand for fuels and energy is likely to persist for some time;

(3) dependence on nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption;

(4) it is in the Nation's interest to expedite the long-term development of renewable and nonpolluting energy resources, such as solar energy;

(5) the various solar energy technologies are today at widely differing stages of development, with some already near the stage of commercial application and others still requiring basic research;

(6) the early development and export of viable equipment utilizing solar energy, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(7) the mass production and use of equipment utilizing solar energy will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) to date, the national effort in research, development, and demonstration activities relating to the utilization of solar energy has been extremely limited; therefore

(9) the urgency of the Nation's critical energy shortages and the need to make clean and renewable energy alternatives commercially viable require that the Nation undertake an intensive research, development, and demonstration program with an estimated Federal investment which may reach or exceed $1,000,000,000.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) pursue a vigorous and viable program of research and resource assessment of solar energy as a major source of energy for our national needs; and

(2) provide for the development and demonstration of practicable means to employ solar energy on a commercial scale.

(Pub. L. 93–473, § 2, Oct. 26, 1974, 88 Stat. 1431.)

SHORT TITLE

Section 1 of Pub. L. 93–473 provided: "That this Act [enacting this subchapter], may be cited as the 'Solar Energy Research, Development, and Demonstration Act of 1974'."

§ 5552. Definitions.

For the purposes of this subchapter—

(1) the term "solar energy" means energy which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, sea thermal gradients, products of photosynthetic processes, organic wastes, and others;

(2) the term "byproducts" includes, with respect to any solar energy technology or process, any solar energy products (including energy forms) other than those associated with or constituting the primary product of such technology or process;

(3) the term "insolation" means the rate at which solar energy is received at the surface of the Earth;

(4) the term "Project" means the Solar Energy Coordination and Management Project; and

(5) the term "Chairman" means the Chairman of the Project.

(Pub. L. 93–473, § 3, Oct. 26, 1974, 88 Stat. 1431.)

§ 5553. Solar Energy Coordination and Management Project.

(a) Establishment.

There is hereby established the Solar Energy Coordination and Management Project.

(b) Membership; chairman; compensation.

(1) The Project shall be composed of six members as follows:

(A) an Assistant Director of the National Science Foundation;

(B) an Assistant Secretary of Housing and Urban Development;

(C) a member of the Federal Power Commission;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) a member to be designated by the President.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(3) If the individual designated under paragraph (1)(F) is an officer or employee of the Federal Government, he shall receive no additional pay on account of his service as a member of the Project. If such individual is not an officer or employee of the Federal Government, he shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (section 5315 of Title 5) for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Project.

(c) Responsibilities.

The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national solar energy research, development, and demonstration program, including—

(1) the determination and evaluation of the resource base, including its temporal and geographic characteristics;

(2) research and development on solar energy technologies; and

(3) the demonstration of appropriate solar energy technologies.

(d) Cooperation with other Federal agencies; assignment of other Federal agency personnel to Project.

(1) The Project shall carry out its responsibilities under this section in cooperation with the following Federal agencies:

(A) the National Science Foundation, the responsibilities of which shall include research;

(B) the National Aeronautics and Space Administration, the responsibilities of which shall include the provision of management capability and the development of technologies;

(C) the Atomic Energy Commission, the responsibilities of which shall include the development of technologies;

(D) the Department of Housing and Urban Development, the responsibilities of which shall include fostering the utilization of solar energy for the heating and cooling of buildings, pursuant to subchapter I of this chapter; and

(E) the Federal Power Commission, the responsibilities of which shall include fostering the utilization of solar energy for the generation of electricity and for the production of synthetic fuels.

(2) Upon request of the Chairman, the head of any such agency is authorized to detail or assign, on a reimbursable basis or otherwise, any of the personnel of such agency to the Project to assist it in carrying out its responsibilities under this subchapter.

(e) Establishment or approval of program or project; operation and administration of program or project.

The Project shall have exclusive authority with respect to the establishment or approval of programs or projects initiated under this subchapter, but the agency involved in any particular program or project shall be responsible for the operation and administration of such program or project.

(f) Authorization of National Aeronautics and Space Administration to undertake and carry out assigned programs.

The National Aeronautics and Space Administration is authorized to undertake and carry out those programs assigned to it by the Project. (Pub. L. 93–473, § 4, Oct. 26, 1974, 88 Stat. 1432.)

§ 5554. Solar energy resource determination and assessment program; objectives; implementation.

(a) The Chairman shall initiate a solar energy resource determination and assessment program with the objective of making a regional and national appraisal of all solar energy resources, including data on isolation, wind, sea thermal gradients, and potentials for photosynthetic conversion. The program shall emphasize identification of promising areas for commercial exploitation and development. The specific goals shall include—

(1) the development of better methods for predicting the availability of all solar energy resources, over long time periods and by geographic location;

(2) the development of advanced meteorological, oceanographic, and other instruments, methodology, and procedures necessary to measure the quality and quantity of all solar resources on periodic bases;

(3) the development of activities, arrangements, and procedures for the collection, evaluation, and dissemination of information and data relating to solar energy resource assessment.

(b) The Chairman, acting through the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and other appropriate agencies, shall—

(1) develop and carry out a general plan for inventorying all forms of solar energy resources associated with Federal lands and (where consistent with property rights) non-Federal lands;

(2) conduct regional surveys based upon such general plan, using innovative meteorological, oceanographic, and space-related techniques, in sufficient numbers to lead to a national inventory of solar energy resources in the United States;

(3) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of solar energy resources; and

(4) make such recommendations for legislation as may appear to be necessary to establish policies for solar resources involving Federal lands and waters, consistent with known inventories of various resource types, with the state of technologies for solar energy development, and with evaluation of the environmental impacts of such development.

(Pub. L. 93–473, § 5, Oct, 26, 1974, 88 Stat. 1433.)

§ 5555. Research and development program.

(a) Purpose.

The Chairman shall initiate a research and development program for the purpose of resolving the major technical problems inhibiting commercial utilization of solar energy in the United States.

(b) Implementation.

In connection with or as a part of such programs, the Chairman shall—

(1) conduct, encourage, and promote scientific research and studies to develop effective and economical processes and equipment for the purpose of utilizing solar energy in an acceptable manner for beneficial uses;

(2) carry out systems, economic, social, and environmental studies to provide a basis for research, development and demonstration planning and phasing; and

(3) perform or cause to be performed technology assessments relevant to the utilization of solar energy.

(c) Scope.

The specific solar energy technologies to be addressed or dealt with in the program shall include—

(1) direct solar heat as a source for industrial processes, including the utilization of low-level heat for process and other industrial purposes;

(2) thermal energy conversion, and other methods, for the generation of electricity and the production of chemical fuels;

(3) the conversion of cellulose and other organic materials (including wastes) to useful energy or fuels;

(4) photovoltaic and other direct conversion processes;

(5) sea thermal gradient conversion;

(6) windpower conversion;

(7) solar heating and cooling of housing and of commercial and public buildings; and

(8) energy storage.

(Pub. L. 93–473, § 6, Oct. 26, 1974, 88 Stat. 1433.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5556 of this title.

§ 5556. Solar energy demonstration facilities program.

(a) Authorization for design and construction of facilities; objectives.

The Chairman is authorized to initiate a program to design and construct, in specific solar energy technologies (including, but not limited to, those listed

in section 5555(c) of this title,[1] facilities or powerplants of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of solar energy. The specific goals of such programs shall incude—

(1) production of electricity from a number of powerplants, on the order of one to ten megawatts each;

(2) production of synthetic fuels in commercial quantities;

(3) large-scale utilization of solar energy in the form of direct heat;

(4) utilization of thermal and all other byproducts of the solar facilities;

(5) design and development of hybrid systems involving the concomitant utilization of solar and other energy sources; and

(6) the continuous operation of such plants and facilities for a period of time.

(b) Criteria for determination to proceed from development program to demonstration.

For each of the technologies for which a successful and appropriate development program is completed, the Chairman shall make a determination to proceed to demonstration based on criteria including, but not necessarily limited to, the following:

(1) the technological feasibility of the project;

(2) the costs and benefits of the project, as determined by an economic assessment;

(3) the immediate and the potential uses of the solar energy utilized in the project;

(4) long-term national need for the technology;

(5) environmental impact;

(6) potential for technology transfer to other applications; and

(7) the nature and extent of Federal participation, if any, in the project.

(c) Establishment of one or more projects utilizing each form of solar energy.

In carrying out his responsibilities under this section, the Chairman, acting through the appropriate Federal agencies, may provide for the establishment of one or more demonstration projects utilizing each form of solar energy, which shall include, as appropriate, the specific research, development, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary to show commercial viability of the specific solar technology.

(d) Investigation and agreements for cooperative development of demonstration facilities.

The Chairman, acting through the appropriate Federal agencies, is authorized to investigate and enter into agreements for the cooperative development of facilities to demonstrate solar technologies. The responsible Federal agency may consider—

(1) cooperative agreements with non-Federal entities for construction of facilities and equipment to demonstrate solar energy technologies; and

(2) cooperative agreements with other Federal agencies for the construction of facilities and equipment and operation of facilities to produce energy for direct Federal utilization.

(e) Construction and operation of demonstration projects without cooperative agreements.

The Chairman, acting through appropriate Federal agencies is authorized to construct and operate demonstration projects without entering into cooperative agreements with respect to such projects, if the Chairman finds that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the specific demonstration project offers opportunities to make important contributions to the general knowledge of solar resources, the techniques of its development, or public confidence in the technology; and

(2) there is no opportunity for cooperative agreements with any non-Federal entity willing and able to cooperate in the demonstration project under subsection (d)(1) of this section, and there is no opportunity for cooperative agreements with other Federal agencies under subsection (d)(2) of this section.

(f) Additional appropriations for projects exceeding maximum amount.

If the estimate of the Federal investment with respect to construction and operation costs of any demonstration project proposed to be established under this section exceeds $20,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(g) Disposition of Federal property interests, electricity, synthetic fuels, and other byproducts upon completion of project.

(1) At the conclusion of any demonstration project established under this section, or as soon thereafter as may be practicable, the responsible Federal agencies shall, by sale, lease, or otherwise, dispose of all Federal property interests which they have acquired pursuant to this section in accordance with existing law and the terms of the cooperative agreements involved.

(2) The agency involved shall, under appropriate agreements or other arrangements, provide for the disposition of electricity, synthetic fuels, and other byproducts administered by such agency. (Pub. L. 93–473, § 7, Oct. 26, 1974, 88 Stat. 1434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5557, 5566 of this title.

§ 5557. Solar Energy Information Data Bank.

(a) Establishment; utilization of other Federal agencies; information and data to be compiled; retrieval and dissemination services; utilization of existing scientific and technical information.

(1) In carrying out his functions under this subchapter the Chairman, utilizing the capabilities of the National Science Foundation, the National Aeronautics and Space Administration, the Department of Commerce, the Atomic Energy Commission, and other appropriate Federal agencies to the maximum extent possible, shall establish and operate a Solar Energy Information Data Bank (hereinafter in this

[1] So in original. Probably should have close parenthesis.

subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating information and data in all of the solar energy technologies referred to in section 5556(c) of this title in a timely and accurate manner in support of the objectives of this subchapter.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertations, monographs, and project descriptions) on solar energy research, development, and applications;

(B) similar technical information on the design, construction, and maintenance of equipment utilizing solar energy;

(C) general information on solar energy applications to be disseminated for popular consumption;

(D) physical and chemical properties of materials required for solar energy activities and equipment; and

(E) engineering performance data on equipment and devices utilizing solar energy.

(3) In accordance with regulations prescribed under section 5561 of this title, the Chairman shall provide retrieval and dissemination services with respect to the information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities and colleges in their related research and consulting activities; and

(C) the private sector upon request in appropriate cases.

(4) In carrying out his functions under this subsection, the Chairman shall utilize, when feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base. He shall coordinate or merge this data bank with other Federal energy information data banks as necessary to assure efficient and effective operation.

(b) Studies and research to promote consumer acceptance and utilization of solar energy technologies.

In carrying out his functions under this subchapter the Chairman shall perform or cause to be performed studies and research on incentives to promote broader utilization and consumer acceptance of solar energy technologies.

(c) Coordination of solar energy technology utilization programs.

The Chairman shall enter into such arrangements and take such other steps as may be necessary or appropriate to provide for the effective coordination of solar energy technology utilization with all other technology utilization programs within the Federal Government. (Pub. L. 93–473, § 8, Oct. 26, 1974, 88 Stat. 1435.)

§ 5558. Scientific and technical education programs.

The Chairman, acting through the National Science Foundation, is authorized and directed to support programs of education in the sciences and engineering to provide the necessary trained personnel to perform the solar energy research, development, and demonstration activities required under this subchapter. Such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs. (Pub. L. 93–473, § 9, Oct. 26, 1974, 88 Stat. 1436.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5560 of this title.

§ 5559. Solar Energy Research Institute; establishment; functions; location.

(a) There is established a Solar Energy Research Institute, which shall perform such research, development, and related functions as the Chairman may determine to be necessary or appropriate in connection with the Project's activities under this subchapter or to be otherwise in furtherance of the purpose and objectives of this subchapter.

(b) The Institute may be located (as designated by the Chairman) at any new or existing Federal laboratory (including a non-Federal laboratory performing functions under a contract entered into with the Project or with any of the agencies represented in the Project as well as a laboratory whose personnel are Federal employees). (Pub. L. 93–473, § 10, Oct. 26, 1974, 88 Stat. 1436.)

§ 5560. International cooperation in solar energy research and programs of education.

(a) The Chairman, in furtherance of the objectives of this subchapter, is authorized to cooperate and participate jointly with other nations, especially those with agreements for scientific cooperation with the United States, in the following activities:

(1) interinstitutional, bilateral, or multilateral research projects in the field of solar energy; and

(2) agreements and programs which will facilitate the exchange of information and data relating to solar energy resource assessment and solar energy technologies.

(b) The National Science Foundation is authorized to encourage, to the maximum extent practicable and consistent with the other objectives of this subchapter, international participation and cooperation in the development and maintenance of programs of education to carry out the policy set forth in section 5558 of this title. (Pub. L. 93–473, § 11, Oct. 26, 1974, 88 Stat. 1437.)

§ 5561. Regulations.

The Chairman, in consultation with heads of the Federal agencies having functions under this subchapter and with other appropriate officers and agencies, shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter promptly and efficiently. Each such officer or agency, in consultation with the Chairman, may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this subchapter promptly and efficiently. (Pub. L. 93–473, § 12, Oct. 26, 1974, 88 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5557 of this title.

§ 5562. Annual report to the President and Congress.

The Chairman shall report, on an annual basis, to the President and the Congress all actions taken under the provisions of this subchapter, all action planned for the ensuing year, and, to the extent practical, a projection of activities and funding requirements, for the ensuing five years. The Chairman also shall recommend, as he deems appropriate, any legislation or reorganization which might further the purposes of this subchapter. (Pub. L. 93–473, § 13, Oct. 26, 1974, 88 Stat. 1437.)

§ 5563. Project information to Congressional committees.

Notwithstanding any other provision of law, the Chairman (or the head of any agency which assumes the functions of the Project pursuant to section 5565 of this title) shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed with respect to all activities under this subchapter. (Pub. L. 93–473, § 14, Oct. 26, 1974, 88 Stat. 1437.)

§ 5564. Comprehensive program definition; preparation; utilization of and consultation with other agencies; transmittal to the President and Congress; time of transmittal.

(a) The Chairman is authorized and directed to prepare a comprehensive program definition of an integrated effort and commitment for effectively developing solar energy resources. The Chairman, in preparing such program definition, shall utilize and consult with the appropriate Federal agencies, State and local government agencies, and private organizations.

(b) The Chairman shall transmit such comprehensive program definition to the President and to each House of the Congress. An interim report shall be transmitted not later than March 1, 1975. The comprehensive program definition shall be transmitted as soon as possible thereafter, but in any case not later than June 30, 1975. (Pub. L. 93–473, § 15, Oct. 26, 1974, 88 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5566 of this title.

§ 5565. Transfer of functions.

Within sixty days after the effective date of the law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after October 26, 1974, if the effective date of such law occurs prior to October 26, 1974), all of the authorities of the Project and all of the research and development functions (and other functions except those related to scientific and technical education) vested in Federal agencies under this subchapter along with related records, documents, personnel, obligations, and other items, to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such organization or agency. (Pub. L. 93–473, § 16, Oct. 26, 1974, 88 Stat. 1438.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5563 of this title.

§ 5566. Authorization of appropriations.

To carry out the provisions of this subchapter, there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, $75,000,000;

(2) for subsequent fiscal years, only such sums as the Congress hereafter may authorize by law;

(3) such amounts as may be authorized for the construction of demonstrations pursuant to section 5556(f) of this title; and

(4) to the National Science Foundation for the fiscal year ending June 30, 1975, not to exceed $2,000,000 to be made available for use in the preparation of the comprehensive program definition under section 5564 of this title.

(Pub. L. 93–473, § 17, Oct. 26, 1974, 88 Stat. 1438.)

Chapter 72.—JUVENILE JUSTICE AND DELINQUENCE PREVENTION [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3733 of this title.

SUBCHAPTER I.—GENERALLY

§ 5601. Congressional statement of findings.

(a) The Congress hereby finds that—

(1) juveniles account for almost half the arrests for serious crimes in the United States today;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned, and dependent children who, because of

this failure to provide effective services, may become delinquents;

(4) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs, particularly nonopiate or polydrug abusers;

(5) juvenile delinquency can be prevented through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions;

(6) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency; and

(7) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency. (Pub. L. 93–415, title I, § 101, Sept. 7, 1974, 88 Stat. 1109.)

EFFECTIVE DATE

Section 263 of Pub. L. 93–415 provided that:

"(a) Except as provided by subsection (b), the foregoing provisions of this Act [enacting subchapters I and II of this chapter and amending section 5108 of Title 5, Government Organization and Employees] shall take effect on the date of enactment of this Act [Sept. 7, 1974].

"(b) Section 204(b)(5) and 204(b)(6) [section 5614(b)(5) and 5614(b)(6) of this title] shall become effective at the close of the thirty-first day of the twelfth calendar month of 1974. Section 204(*l*) [section 5614(*l*) of this title] shall become effective at the close of the thirty-first day of the eighth calendar month of 1976."

SHORT TITLE

Section 1 of Pub. L. 93–415 provided: "That this Act [enacting this chapter and adding sections 3772 to 3774, and 3821 of this title, and sections 4351 to 4353, 5038 to 5042 of Title 18, amending sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, 3883 and 3888 of this title, section 5108 of Title 5, and sections 5031 to 5037 of Title 18, and repealing section 3889 of this title] may be cited as the 'Juvenile Justice and Delinquency Prevention Act of 1974'."

§ 5602. Congressional declaration of purpose and policy.

(a) It is the purpose of this chapter—

(1) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(2) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

(4) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

(6) to assist States and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions; and

(7) to establish a Federal assistance program to deal with the problems of runaway youth.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention. (Pub. L. 93–415, title I, § 102, Sept. 7, 1974, 88 Stat. 1110.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5603. Definitions.

For purposes of this chapter—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this chapter;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, train-

ing, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent;

(4) the term "Law Enforcement Assistance Administration" means the agency established by section 3711(a) of this title;

(5) the term "Administrator" means the agency head designated by section 3711(b) of this title;

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States;

(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this subchapter;

(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan;

(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses; and

(13) the term "treatment" includes but is not limited to medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

(Pub. L. 93–415, title I, § 103, Sept. 7, 1974, 88 Stat. 1111.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SUBCHAPTER II.—PROGRAMS AND OFFICES

PART A.—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

§ 5611. Establishment.

(a) Placement within Law Enforcement Assistance Administration, Department of Justice.

There is hereby created within the Department of Justice, Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this chapter as the "Office").

(b) Administration of programs.

The programs authorized pursuant to this chapter unless otherwise specified in this chapter shall be administered by the Office established under this section.

(c) Assistant Administrator; nomination by President.

There shall be at the head of the Office an Assistant Administrator who shall be nominated by the President by and with the advice and consent of the Senate.

(d) Powers of Assistant Administrator.

The Assistant Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

(e) Deputy Assistant Administrator; appointment; general functions.

There shall be in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator of the Law Enforcement Assistant Administration. The Deputy Assistant Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the Office of the Assistant Administrator.

(f) Supervision of National Institute for Juvenile Justice and Delinquency Prevention.

There shall be established in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established under section 5651 of this title. (Pub. L. 93–415, title II, § 201(a)–(f), Sept. 7, 1974, 88 Stat. 1112, 1113.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a) and (b), was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this tile.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 3773, 5651 of this title.

§ 5612. Personnel.

(a) Selection; employment; compensation.

The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) Special personnel.

The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of Title 5.

(c) Personnel from other agencies.

Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Assistant Administrator to assist him in carrying out his functions under this chapter.

(d) Experts and consultants.

The Administrator may obtain services as authorized by section 3109 of Title 5, at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of Title 5. (Pub. L. 93–415, title II, § 202, Sept. 7, 1974, 88 Stat. 1113.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (c), was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

CODIFICATION

"Section 5332 of Title 5", referred to in subsec. (d), was, in the original, "section 5332 of Title I" and has been editorially changed to conform to the apparent intent of Congress.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5613. Voluntary and uncompensated services.

The Administrator is authorized to accept and employ, in carrying out the provisions of this chapter, voluntary and uncompensated services notwithstanding the provisions of section 665(b) of Title 31. (Pub. L. 93–415, title II, § 203, Sept. 7, 1974, 88 Stat. 1113.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title not under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5614. Concentration of federal efforts.

(a) Implementation of policy by Administrator; consultation with Council and Advisory Committee.

The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(b) Duties of Administrator.

In carrying out the purposes of this chapter, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs. The report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage in-

creased diversion of juveniles from the traditional juvenile justice system; and

(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

(c) Report by President to Congress and Council; time for report.

The President shall, no later than ninety days after receiving each annual report under subsection (b)(5) of this section, submit a report to the Congress and to the Council containing a detailed statement of any action taken or anticipated with respect to recommendations made by each annual report.

(d) First and second annual reports of Administrator; contents.

(1) The first annual report submitted to the President and the Congress by the Administrator under subsection (b)(5) of this section shall contain, in addition to information required by subsection (b)(5) of this section, a detailed statement of criteria developed by the Administrator for identifying the characteristics of juvenile delinquency, juvenile delinquency prevention, diversion of youths from the juvenile justice system, and the training, treatment, and rehabilitation of juvenile delinquents.

(2) The second such annual report shall contain, in addition to information required by subsection (b)(5) of this section, an identification of Federal programs which are related to juvenile delinquency prevention or treatment, together with a statement of the moneys expended for each such program during the most recent complete fiscal year. Such identification shall be made by the Administrator through the use of criteria developed under paragraph (1).

(e) Third annual report of Administrator; contents.

The third such annual report submitted to the President and the Congress by the Administrator under subsection (b)(6) of this section shall contain, in addition to the comprehensive plan required by subsection (b)(6) of this section, a detailed statement of procedures to be used with respect to the submission of juvenile delinquency development statements to the Administrator by Federal agencies under subsection (*l*) of this section. Such statement submitted by the Administrator shall include a description of information, data, and analyses which shall be contained in each such development statement.

(f) Information, reports, studies, and surveys from other agencies.

The Administrator may require, through appropriate authority, departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this part.

(g) Delegation of functions.

The Administrator may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Administration.

(h) Utilization of services and facilities of other agencies; reimbursement.

The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(i) Transfer of funds to other agencies.

The Administrator is authorized to transfer funds appropriated under this subchapter to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Assistant Administrator finds to be exceptionally effective or for which he finds there exists exceptional need.

(j) Grants and contracts to other agencies, institutions and individuals.

The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this part.

(k) Coordination of functions of Administrator and Secretary of Health, Education, and Welfare.

All functions of the Administrator under this part shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention Act.

(*l*) Annual juvenile delinquency development statements of other agencies; procedure; contents; review by Administrator.

(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program which meets any criterion developed by the Administrator under subsection (d)(1) of this section to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (f) of this section.

(2) Each juvenile delinquency development statement submitted to the Administrator under this subsection shall be submitted in accordance with procedure established by the Administrator under subsection (e) of this section and shall contain such information, data, and analyses as the Administrator may require under subsection (e) of this section. Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to him under this subsection. Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation

which significantly affects juvenile delinquency prevention and treatment. (Pub. L. 93–415, title II, § 204, Sept. 7, 1974, 88 Stat. 1113.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1189, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

The Juvenile Delinquency Prevention Act, referred to in subsec. (k), is classified to section 3801 et seq. of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, except that subsecs. (b)(5) and (b)(6) effective at the close of December 31, 1974, and subsec. (*l*) effective at the close of August 31, 1976, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5616, 5656 of this title.

§ 5615. Joint funding; non-Federal share requirements.

Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose. (Pub. L. 93–415, title II, § 205, Sept. 7, 1974, 88 Stat. 1116.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5616. Coordinating Council on Juvenile Justice and Delinquency Prevention.

(a) Establishment; membership.

(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, the Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Deputy Assistant Administrator of the Institute for Juvenile Justice and Delinquency Prevention, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) Chairman and Vice Chairman.

The Attorney General shall serve as Chairman of the Council. The Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) Functions.

The function of the Council shall be to coordinate all Federal juvenile delinquency programs. The Council shall make recommendations to the Attorney General and the President at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities.

(d) Meetings.

The Council shall meet a minimum of six times per year and a description of the activities of the Council shall be included in the annual report required by section 5614(b)(5) of this title.

(e) Executive Secretary of Council: appointment; responsibilities.

(1) The Chairman shall, with the approval of the Council, appoint an Executive Secretary of the Council.

(2) The Executive Secretary shall be responsible for the day-to-day administration of the Council.

(3) The Executive Secretary may, with the approval of the Council, appoint such personnel as he considers necessary to carry out the purposes of this subchapter.

(f) Expenses of Council members; reimbursement.

Members of the Council who are employed by the Federal Government full time shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) Authorization of appropriations.

To carry out the purposes of this section there is authorized to be appropriated such sums as may be necessary. (Pub. L. 93–415, title II, § 206, Sept. 7, 1974, 88 Stat. 1116.)

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Provisions establishing the Special Action Office for Drug Abuse Prevention, authorizing the appointment of a Director, etc., and setting forth the powers, functions, and duties of the Office and Director were classified to sections 1111 to 1143 of Title 21, Food and Drugs, prior to repeal of such sections and abolition of the Office and each position in the Office of Director, etc., by Pub. L. 92–255, title I, § 104, Mar. 21, 1972, 86 Stat. 67, eff. June 30, 1975.

§ 5617. National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(a) Membership.

There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Advisory Committee") which shall consist of twenty-one members.

(b) Members of Coordinating Council as ex officio members.

The members of the Coordinating Council or their respective designees shall be ex officio members of the Committee.

(c) Regular members; appointment; qualifications.

The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special

knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

(d) Term of office; time of appointment; reappointment; vacancies.

Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Such members shall be appointed within ninety days after September 7, 1974. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. (Pub. L. 93–415, title II, § 207, Sept. 7, 1974, 88 Stat. 1117.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5618. Duties of Advisory Committee.

(a) Meetings.

The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

(b) Recommendations to Administrator.

The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) Subcommittee for advice on particular functions.

The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Administrator on particular functions or aspects of the work of the Administration.

(d) Subcommittee to serve on Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention.

The Chairman shall designate a subcommittee of five members of the Committee to serve, together with the Director of the National Institute of Corrections, as members of an Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention to perform the functions set forth in section 5655 of this title.

(e) Subcommittee to serve as Advisory Committee to Administrator on Standards for Administration of Juvenile Justice.

The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 5657 of this title.

(f) Appointment of personnel.

The Chairman, with the approval of the Committee, shall appoint such personnel as are necessary to carry out the duties of the Advisory Committee. (Pub. L. 93–415, title II, § 208, Sept. 7, 1974, 88 Stat. 1117.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5655, 5657 of this title.

§ 5619. Compensation and expenses.

(a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of Title 5, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee. (Pub. L. 93–415, title II, § 209, Sept. 7, 1974, 88 Stat. 1118.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

PART B.—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Subpart I.—Formula Grants

§ 5631. Grants to States and local governments.

The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. (Pub. L. 93–415, title II, § 221, Sept. 7, 1974, 88 Stat. 1118.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5632. Allocation of funds.

(a) Time; basis; amounts.

In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands no allotment shall be less than $50,000.

(b) Reallocation of unobligated funds.

Except for funds appropriated for fiscal year 1975, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Funds appropriated for fiscal year 1975 may be obligated in accordance with subsection (a) of this section until June 30, 1976, after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for the same period.

(c) Use of allotted funds for development of state plans; limitations.

In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

(d) Limitations on financial assistance.

Financial assistance extended under the provisions of this section shall not exceed 90 per centum of the approved costs of any assisted programs or activities. The non-Federal share shall be made in cash or kind consistent with the maintenance of programs required by section 5671 of this title. (Pub. L. 93–415, title II, § 222, Sept. 7, 1974, 88 Stat. 1118.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title.

§ 5633. State plans.

(a) Requirements.

In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes consistent with the provisions of section 3733(a) (1), (3), (5), (6), (8), (10), (11), (12), and (15) of this title. In accordance with regulations established under this subchapter, such plan must—

(1) designate the State planning agency established by the State under section 3723 of this title as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the "State planning agency") has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for an advisory group appointed by the chief executive of the State to advise the State's planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of a juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, or youth services departments, (C) which shall include representatives of private organizations concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this chapter, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment;

(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

(5) provide that at least 66⅔ per centum of the funds received by the State under section 5632 of this title shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(7) provide for an equitable distribution of the assistance received under section 5632 of this title within the State;

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs;

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 5632 of this title, whether expended directly by the State or by local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

(D) comprehensive programs of drug and alcohol abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and "drug dependent" youth (as defined in section 201(q) of this title);

(E) educational programs or supportive services designed to keep delinquents and to encourage other youth to remain in elementary and secondary schools or in alternative learning situations;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to—

(i) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

(ii) increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

(iii) discourage the use of secure incarceration and detention;

(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

(12) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(13) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of paragraphs (12) and (13) are met, and for annual reporting of the results of such monitoring to the Administrator;

(15) provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

(16) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(17) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this chapter. Such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) the preservation or rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this chapter;

(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;

(18) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this subchapter;

(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant), to the extent feasible and practical, the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(20) provide that the State planning agency will from time to time, but not less often then annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(21) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this subchapter.

Such plan may at the discretion of the Administrator be incorporated into the plan specified in section 3733(a) of this title.

(b) Approval by State planning agency.

The State planning agency designated pursuant to subsection (a) of this section, after consultation with the advisory group referred to in subsection (a) of this section, shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c) Approval by Administrator.

The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(d) Failure to submit or qualify plan; expenditure of allotted funds.

In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 3757, 3758, and 3759 of this title, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of section 5632(a) of this title available to public and private agencies for special emphasis prevention and treatment programs as defined in section 5634 of this title.

(e) Disqualification of plan by neglect or oversight; expenditure of allotted funds.

In the event the plan does not meet the requirements of this section due to oversight or neglect, rather than explicit and conscious decision, the Administrator shall endeavor to make that State's allotment under the provisions of section 5632(a) of this title available to public and private agencies in that State for special emphasis prevention and treatment programs as defined in section 5634 of this title. (Pub. L. 93–415, title II, § 223, Sept. 7, 1974, 88 Stat. 1119.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a)(17)(D), was in the original "this Act", which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3733, 5635 of this title.

Subpart II.—Special Emphasis Prevention and Treatment Programs

§ 5634. Funding.

(a) Grants and contracts to public and private agencies, organizations, etc.; purpose.

The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent;

(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice and the Institute as set forth pursuant to section 5657 of this title; and

(6) develop and implement model programs and methods to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions.

(b) Limitations on availability of appropriated funds.

Not less than 25 per centum or more than 50 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

(c) Availability of funds for private agencies, etc.

At least 20 per centum of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth. (Pub. L. 93–415, title II, § 224, Sept. 7, 1974, 88 Stat. 1122.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5633, 5635 of this title.

§ 5635. Applications for grants and contracts.

(a) Time and manner prescribed by Administrator.

Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 5634 of this title, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) Contents.

In accordance with guidelines established by the Administrator, each such application shall—

(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out one or more of the purposes set forth in section 5634 of this title;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of the program;

(5) indicate that the applicant has requested the review of the application from the State planning agency and local agency designated in section 5633 of this title, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this subchapter; and

(8) indicate the response of the State agency or the local agency to the request for review and comment on the application.

(c) Approval by Administrator; criteria.

In determining whether or not to approve applications for grants under section 5634 of this title, the Administrator shall consider—

(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

(2) the extent to which the proposed program will incorporate new or innovative techniques;

(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under section 5633(c) of this title and when the location and scope of the program makes such consideration appropriate;

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 5657 of this title.

(Pub. L. 93–415, title II, § 225, Sept. 7, 1974, 88 Stat. 1123.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5636. Noncompliance of program or activity; proceedings by Administrator.

Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this subchapter, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this subchapter; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Administrator shall initiate such proceedings as are appropriate. (Pub. L. 93–415, title II, § 226, Sept. 7, 1974, 88 Stat. 1124.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5637. Use of funds; limitations.

(a) Funds paid pursuant to this subchapter to any State, public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for—

(1) planning, developing, or operating the program designed to carry out the purposes of this part; and

(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

(b) Except as provided by subsection (a) of this section, no funds paid to any public or private agency, institution, or individual under this part (whether directly or through a State agency or local agency), may be used for construction. (Pub. L. 93–415, title II, § 227, Sept. 7, 1974, 88 Stat. 1124.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5638. Continuing financial assistance for programs.

(a) Congressional statement of policy.

In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this subchapter shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

(b) Utilization of formula grant funds; limitations.

At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

(c) Contributions by recipient.

Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the recipient of any grant or contract to contribute money, facilities, or services.

(d) Methods of payment.

Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Administrator may determine. (Pub. L. 93–415, title II, § 228, Sept. 7, 1974, 88 Stat. 1124.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

PART C.—NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

§ 5651. Institute structure and operation.

(a) Establishment.

There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice and Delinquency Prevention.

(b) Deputy Assistant Administrator as head; supervision and direction by Assistant Administrator.

The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Assistant Administrator, and shall be headed by a Deputy Assistant Administrator of the Office appointed under section 5611 (f) of this title.

(c) Coordination of activities with National Institute of Law enforcement and Criminal Justice.

The activities of the National Institute for Juvenile Justice and Delinquency Prevention shall be coordinated with the activities of the National Institute of Law Enforcement and Criminal Justice in accordance with the requirements of section 5611(b) of this title.

(d) Responsibilities of Administrator.

The Administrator shall have responsibility for the administration of the organization, employees, enrollees, financial affairs, and other operations of the Institute.

(e) Delegation of power by Administrator.

The Administrator may delegate his power under this chapter to such employees of the Institute as he deems appropriate.

(f) Purpose of Institute.

It shall be the purpose of the Institute to provide a coordinating center for the collection, preparation, and dissemination of useful data regarding the treatment and control of juvenile offenders, and it shall also be the purpose of the Institute to provide training for representatives of Federal, State, and local law enforcement officers, teachers, and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel and other persons, including lay personnel, connected with the treatment and control of juvenile offenders.

(g) Additional powers.

In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any functions of the Institute; and

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of Title 5 and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(h) Cooperation of other federal agencies.

Any Federal agency which receives a request from the Institute under subsection (g)(1) of this section may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute. (Pub. L. 93–415, title II, § 241, Sept. 7, 1974, 88 Stat. 1125.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (e), was in the original "the Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification see Short Title note under section 5601 of this title.

CODIFICATION

Subsec. (h) of this section was, in the original, designated as "(b)" and has been editorially changed to conform to the apparent intent of Congress.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5611 of this title.

§ 5652. Information function of Institute.

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

(Pub. L. 93–415, title II, § 242, Sept. 7, 1974, 88 Stat. 1126.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5653. Research, demonstration, and evaluation functions of Institute.

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile

delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all juvenile delinquency programs assisted under this subchapter in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator;

(5) prepare, in cooperation with educational institutions, Federal, State, and local agencies, and appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including recommendations designed to promote effective prevention and treatment;

(6) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency; and

(7) disseminate pertinent data and studies (including a periodic journal) to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency.

(Pub. L. 93–415, title II, § 243, Sept. 7, 1974, 88 Stat. 1126.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5654. Training function of Institute.

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

(2) develop, conduct, and provide for seminars, workshop, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency;

(3) devise and conduct a training program, in accordance with the provisions of sections 5659, 5660, and 5661 of this title, of short-term instruction in the latest proven-effective methods of prevention, control, and treatment of juvenile delinquency for correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel) connected with the prevention and treatment of juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

(Pub. L. 93–415, title II, § 244, Sept. 7, 1974, 88 Stat. 1127.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5655. Advisory Committee of Institute; functions.

The Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention established in section 5618(d) of this title shall advise, consult with, and make recommendations to the Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention concerning the overall policy and operations of the Institute. (Pub. L. 93–415, title II, § 245, Sept. 7, 1974, 88 Stat. 1127.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5618 of this title.

§ 5656. Annual report by Deputy Assistant Administrator; time; contents; summary to President and Congress.

The Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this subchapter, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 5614(b)(5) of this title. (Pub. L. 93–415, title II, § 246, Sept. 7, 1974, 88 Stat. 1127.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5657. Standards for juvenile justice system.

(a) Functions of Institute.

The National Institute for Juvenile Justice and Delinquency Prevention, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 5618(e) of this title, shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

(b) Report by Advisory Committee to President and Congress; contents.

Not later than one year after September 7, 1974, the Advisory Committee shall submit to the President and the Congress a report which, based on recommended standards for the administration of juvenile justice at the Federal, State, and local level—

(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

(c) Availability of information of Federal departments, etc.

Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section. (Pub. L. 93–415, title II, § 247, Sept. 7, 1974, 88 Stat. 1127.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5618, 5634, 5635 of this title.

§ 5658. Records; restrictions on disclosure and transfer.

Records containing the identity of individual juniles gathered for purposes pursuant to this subchapter may under no circumstances be disclosed or transferred to any individual or other agency, public or private. (Pub. L. 93–415, title II, § 248, Sept. 7, 1974, 88 Stat. 1128.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

§ 5659. Training program; establishment; purpose; utilization of state and local facilities, personnel, etc.; enrollees.

(a) The Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carry out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities and the like.

(b) Enrollees in the training program established under this section shall be drawn from correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel) connected with the prevention and treatment of juvenile delinquency. (Pub. L. 93–415, title II, § 249, Sept. 7, 1974, 88 Stat. 1128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5654, 5660, 5661, of this title.

§ 5660. Curriculum for training program.

The Administrator shall design and supervise a curriculum for the training program established by section 5659 of this title which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program. (Pub. L. 93–415, title II, § 250, Sept. 7, 1974, 88 Stat. 1128.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5654 of this title.

§ 5661. Enrollment for training program.

(a) Application.

Any person seeking to enroll in the training program established under section 5659 of this title shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

(b) Admittance; determination by Secretary.

The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 5659 (b) of this title.

(c) Travel expenses and per diem allowance.

While studying at the Institute and while traveling in connection with his study (including authorized field trips), each person enrolled in the Institute shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of Title 5. (Pub. L. 93–415, title II, § 251, Sept. 7, 1974, 88 Stat. 1128.)

REFERENCES IN TEXT

Section 5703 of Title 5, referred to in subsec. (c), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5654 of this title.

PART D.—AUTHORIZATION OF APPROPRIATIONS

§ 5671. Fiscal years 1975, 1976 and 1977; maintenance from other appropriations.

(a) To carry out the purposes of this subchapter there is authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1975, $125,000,000 for the fiscal year ending June 30, 1976, and $150,000,000 for the fiscal year ending June 30, 1977.

(b) In addition to the funds appropriated under this section, the Administration shall maintain from other Law Enforcement Assistance Administration appropriations other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972. (Pub. L. 93–415, title II, § 261, Sept. 7, 1974, 88 Stat. 1129.)

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3768, 5632 of this title.

§ 5672. Prohibitions against discrimination; required provisions in grants, contracts and agreements; enforcement.

(a) No financial assistance for any program under this chapter shall be provided unless the grant, contract, or agreement with respect to such program specifically provides that no recipient of funds will discriminate as provided in subsection (b) of this section with respect to any such program.

(b) No person in the United States shall on the ground of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this chapter. The provisions of the preceding sentence shall be enforced in accordance with section 2000d–2 of this title. Section 2000d–2 of this title shall apply with respect to any action taken to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter. (Pub. L. 93–415, title II, § 262, Sept. 7, 1974, 88 Stat. 1129.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a) and (b), was in the original "this Act" which is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, enacting this chapter. For additional classification, see Short Title note under section 5601 of this title.

EFFECTIVE DATE

Section effective Sept. 7, 1974, see section 263 of Pub. L. 93–415, set out as a note under section 5601 of this title.

SUBCHAPTER III.—RUNAWAY YOUTH

§ 5701. Congressional statement of findings.

The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

(Pub. L. 93–415, title III, § 302, Sept. 7, 1974, 88 Stat. 1129.)

SHORT TITLE

Section 301 of Pub. L. 93–415 provided that: "This title [enacting this subchapter] may be cited as the 'Runaway Youth Act'."

§ 5702. Promulgation of rules.

The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this subchapter. (Pub. L. 93–415, title III, § 303, Sept. 7, 1974, 88 Stat 1130.)

PART A.—GRANTS PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5751 of this title.

§ 5711. Authorization for grants and technical assistance; purposes; amount of grant; priority.

The Secretary is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this part. Grants under this part shall be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of runaway youth in the community and the existing availability of services. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with runaway youth. (Pub. L. 93–415, title III, § 311, Sept. 7, 1974, 88 Stat. 1130.)

§ 5712. Eligibility; plan requirements.

(a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians.

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each house—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient portion to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives (if such action is required by State law) and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway house, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, and the return of runaway youths from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their

parents within the State in which the runaway house is located and for assuring, as possible, that aftercase services will be provided to those children who are returned beyond the State in which the runaway house is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without parental consent to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

(7) shall submit annual reports to the Secretary detailing how the house has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such house under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary.

(Pub. L. 93–415, title III, § 312, Sept. 7, 1974, 88 Stat. 1130.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5713 of this title.

§ 5713. Approval of application by Secretary; priority.

An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 5712 of this title. Priority shall be given to grants smaller than $75,000. In considering grant applications under this part, priority shall be given to any applicant whose program budget is smaller than $100,000. (Pub. L. 93–415, title III, § 313, Sept. 7, 1974, 88 Stat. 1131.)

§ 5714. Grants to nonprofit private agencies; control over staff and personnel.

Nothing in this part shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds. (Pub. L. 93–415, title III, § 314, Sept. 7, 1974, 88 Stat. 1131.)

§ 5715. Annual report to Congress.

The Secretary shall annually report to the Congress on the status and accomplishments of the runaway houses which are funded under this part, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

(Pub. L. 93–415, title III, § 315, Sept. 7, 1974, 88 Stat. 1131.)

§ 5716. Federal and non-Federal share; methods of payment.

(a) The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necesary adjustments on account of overpayments or underpayments. (Pub. L. 93–415, title III, § 316, Sept. 7, 1974, 88 Stat. 1132.)

PART B.—STATISTICAL SURVEY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5751 of this title.

§ 5731. Scope; report to Congress; time for report.

The Secretary shall gather information and carry out a comprehensive statistical survey defining the major characteristic of the runaway youth population and determining the areas of the Nation most affected. Such survey shall include the age, sex, and socioeconomic background of runaway youth, the place from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report the results of such information gathering and survey to the Congress not later than June 30, 1975. (Pub. L. 93–415, title III, § 321, Sept. 7, 1974, 88 Stat. 1132.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5732 of this title.

§ 5732. Records; restrictions on disclosure and transfer.

Records containing the identity of individual runaway youths gathered for statistical purposes pursuant to section 5731 of this title may under no circumstances be disclosed or transferred to any individual or to any public or private agency. (Pub. L. 93–415, title III, § 322, Sept. 7, 1974, 88 Stat. 1132.)

PART C.—AUTHORIZATION OF APPROPRIATIONS

§ 5751. Amounts for grant program and statistical surgery.

(a) To carry out the purposes of part A of this subchapter there is authorized to be appropriated for each of the fiscal years ending June 30, 1975, 1976, and 1977, the sum of $100,000.

(b) To carry out the purposes of part B of this subchapter there is authorized to be appropriated the sum of $500,000. (Pub. L. 93–415, title III, § 331, Sept. 7, 1974, 88 Stat. 1132.)

Chapter 73.—DEVELOPMENT OF ENERGY SOURCES [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5905 of this title.

§ 5801. Congressional declaration of policy and purpose.

(a) Development and utilization of energy sources.

The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) Necessity of establishing Energy Research and Development Administration.

The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in

the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

(c) Separation of licensing and regulatory functions of the Atomic Energy Commission.

The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the perfcrmance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this chapter, assuring adequacy of technical and other resources necessary for the performance of each.

(d) Small business participation.

The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

(e) Priorities.

Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy. (Pub. L. 93–438, § 2, Oct. 11, 1974, 88 Stat. 1233.)

EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 312 of Pub. L. 93–438 provided that:

"(a) This Act [see Short Title note below] shall take effect one hundred and twenty days after the date of its enactment [Oct. 11, 1974], or on such earlier date as the President may prescribe and publish in the Federal Register [see Ex. Ord. No. 11834, set out below] except that any of the officers provided for in title I of this Act [subchapter I of this chapter] may be nominated and appointed, as provided by this Act, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

"(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE

Section 1 of Pub. L. 93–438 provided that: "This Act [enacting this chapter, repealing sections 2031 and 2032 of this title, amending sections 5313 to 5316 of Title 5, and enacting provisions set out as notes under section 5801 of this title] may be cited as the 'Energy Reorganization Act of 1974'."

SEPARABILITY OF PROVISIONS

Section 311 of Pub. L. 93–438 provided that: "If any provision of this Act [See Short Title note above], or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

EX. ORD. NO. 11834. EFFECTIVE DATE OF CHAPTER

Ex. Ord. No. 11834, Jan. 15, 1975, 40 F.R. 2971, provided:

By the virtue of the authority vested in me by the Energy Reorganization Act of 1974 (Public Law 93–438; 88 Stat. 1233) [this chapter], section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered:

SECTION 1. Pursuant to Section 312(a) of the Energy Reorganization Act of 1974 [set out as a note under this section] I hereby prescribe January 19, 1975, as the effective date of that Act. This action shall not impair in any way the activation of the Energy Resources Council by Executive Order No. 11814 of October 11, 1974 [set out as a note under section 5818 of this title].

SEC. 2. The Director of the Office of Management and Budget shall take all steps necessary or appropriate to ensure or effectuate the transfers provided for in the Energy Reorganization Act of 1974 [this chapter], the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93–409; 88 Stat. 1069) [section 5501 et seq. of this title], the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410; 88 Stat. 1079) [section 1101 et seq. of Title 30, Mineral Lands and Mining], the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–473; 88 Stat. 1431) [section 5551 et seq. of this title], to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records, and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by the Energy Reorganization Act of 1974 [this chapter], this Order shall be published in the FEDERAL REGISTER.

GERALD R. FORD.

SUBCHAPTER I.—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5876 of this title.

§ 5811. Establishment of Energy Research and Development Administration.

There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this chapter referred to as the "Administration"). (Pub. L. 93–438, title I, § 101, Oct. 11, 1974, 88 Stat. 1234.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5812. Officers of the Administration.

(a) Administrator; appointment.

There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this chapter referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer of a regular component of an Armed Force. The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) Deputy Administrator.

There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Qualifications of Administrator and Deputy Administrator.

The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

(d) Assistant Administrators; number; appointment; qualifications.

There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) General Counsel.

There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

(f) Additional officers.

There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to section 2201(d) of this title.

(g) Director of Military Application; functions; qualifications; compensation.

The Division of Military Application transferred to and established in the Administration by section 5814(d) of this title shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

(h) Allocation of functions; responsibility for international cooperation.

Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

(i) Order of succession.

The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator. (Pub. L. 93–438, title I, § 102, Oct. 11, 1974, 88 Stat. 1234.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (g), is classified to section 2011 et seq. of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, except that any of the officers provided for in subchapter I of this chapter may be nominated and appointed as provided by this chapter at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5815 of this title.

§ 5813. Responsibilities of the Administrator.

The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization;

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

(Pub. L. 93–438, title I, § 103, Oct. 11, 1974, 88 Stat. 1235.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5814, 5817 of this title.

§ 5814. Abolition and transfers.

(a) The Atomic Energy Commission is hereby abolished.

(b) All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this chapter.

(c) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this chapter.

(d) The General Advisory Committee established pursuant to section 2036 of this title, the Patent Compensation Board established pursuant to section 2187 of this title, and the Divisions of Military Application and Naval Reactors established pursuant to section 2035 of this title, are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 of this title, are transferred to the Administrator.

(e) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to sections 661 to 668 of Title 30;

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from October 11, 1974, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) To the extent necessary or appropriate to perform functions and carry out programs transferred by this chapter, the Administrator and Commission may exercise, in relation to the functions so trans-

ferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) In the exercise of his responsibilities under section 5813 of this title, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

(1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and

(2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.

(Pub. L. 93–438, title I, § 104, Oct. 11, 1974, 88 Stat. 1237.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5812, 5815, 5817, 5841 of this title.

§ 5815. Administrative provisions.

(a) Rules and regulations.

The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) Policy planning and evaluation.

The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Delegation of functions.

Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Organization.

Except as provided in sections 5812 and 5814(d) of this title, the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) Field offices.

The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(f) Seal.

The Administrator shall cause a seal of office to be made for the Administration of such device as he shall approve, and judicial notice shall be taken of such seal.

(g) Working capital fund.

The Administrator is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, assets other than real property, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized. The working capital fund shall recover, from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual or annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

(h) Information from other agencies.

Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under his subchapter. (Pub. L. 93–438, title I, § 105, Oct. 11, 1974, 88 Stat. 1238.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5816. Personnel and services.

(a) Appointment and compensation of officers and employees.

The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 2201(d) of this title as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) Employment of experts and consultants.

The Administrator is authorized to obtain services as provided by section 3109 of Title 5.

(c) Participation of military personnel.

The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position

the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Status of military personnel unaffected.

Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which appointed, detailed or assigned.

(e) Transportation and per diem expenses.

The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of Title 5 for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) Personnel of other agencies.

The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

(g) Advisory boards.

The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act, to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) Employment of noncitizens.

The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest. (Pub. L. 93–438, title I, § 106, Oct. 11, 1974, 88 Stat. 1239.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective January 19, 1975, except that any of the officers provided for in subchapter I of this chapter may be nominated and appointed as provided by this chapter at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5817. Powers of the Administrator.

(a) Research and development.

The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of reseach and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this chapter as are applicable to the nuclear activities transferred pursuant to this subchapter shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 5813 and 5814 of this title shall be carried out pursuant to the provisions of this chapter, applicable authority existing immediately before the effective date of this chapter, or in accordance with sections 2051 to 2053 of this title.

(b) Facilities and real property.

Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) Services for employees at remote locations.

(1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraphs (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices re-

flecting reasonable value as determined by the Administrator.

(3) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of such work or services, to repay or make advances to appropriations or funds which do or will bear all or a part of such cost, or to refund excess sums when necessary; except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Administrator for performing the work or services for which payment is received.

(d) Acquisition of copyrights and patents.

The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(e) Dissemination of information.

Subject to the provisions of sections 2161 to 2166 of this title, and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this subchapter through information programs and other appropriate means, and shall encouage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) Gifts and bequests.

The Administrator is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Administration. Gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States. (Pub. L. 93–438, title I, § 107, Oct. 11, 1974, 88 Stat. 1240.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (a), is classified to section 2011 et seq. of this title.

The effective date of this chapter, referred to in subsec. (a), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

The Public Buildings Act of 1959, as amended, referred to in subsec. (b), is classified to section 601 et seq. of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 18 of 1950, also referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

AIR TRANSPORTATION OF PLUTONIUM; EXEMPT SHIPMENT OF PLUTONIUM

Pub. L. 94–187, title V, §§ 501, 502, Dec. 31, 1975, 89 Stat. 1077, provided that:

"The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipment: *Provided*, That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. For the purposes of this title [section 501 and 502 of Pub. L. 94–187], the term 'exempt shipments of plutonium' shall include the following:

"(1) Plutonium shipments in any form designed for medical application.

"(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

"(3) Shipments of small amounts of plutonium deemed by the Administrator of the Energy Research and Development Administration to require rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the transported item or material."

§ 5818. Energy Resources Council.

(a) Establishment; composition.

There is established in the Executive Office of the President an Energy Resources Council. The Council shall be composed of the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Secretary of State, the Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The President shall designate one of the members of the Council to serve as Chairman.

(b) Duties and functions.

It shall be the duty and function of the Council to—

(1) insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy policy or for the management of energy resources;

(2) make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies; and

(3) advise the President in the preparation of the reorganization recommendations required by section 5820 of this title.

(c) Testimony before Congress.

The Chairman of the Council may not refuse to testify before the Congress or any duly authorized

committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.

(d) Effective and termination dates.

This section shall be effective no later than sixty days after October 11, 1974, or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first. (Pub. L. 93–438, title I, § 108, Oct. 11, 1974, 88 Stat. 1242.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

EX. ORD. NO. 11814. ACTIVATION OF ENERGY RESOURCES COUNCIL

Ex. Ord. No. 11814, Oct. 11, 1974, 39 F.R. 36955, as amended by Ex. Ord. No. 11819, Nov. 16, 1974, 39 F.R. 40743; Ex. Ord. No. 11855, May 1, 1975, 40 F.R. 19423, provided:

In my address to the Congress on October 8, 1974, I expressed my intention to create a new National Energy Board, under the chairmanship of the Secretary of the Interior, to develop, coordinate, and assure the implementation of Federal energy policy. Subsequent to my delivery of that address, the Congress completed action on the Energy Reorganization Act of 1974 [this chapter] which I have just approved into law. Section 108 of that act [this section] creates in the Executive Office of the President a new Energy Resources Council which would be charged with performing functions that are essentially the same as those I had intended to assign to the National Energy Board. Consequently, I have determined that it would serve no useful purpose to create that Board. Instead, I am now exercising the authority vested in me by section 108 of the Energy Reorganization Act of 1974 [this section], to activate immediately the Energy Resources Council, to designate the Secretary of the Interior as its Chairman, and to designate additional officials as members thereof.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States, particularly section 108 of the Energy Reorganization Act of 1974 [this section], and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. Section 108 of the Energy Reorganization Act of 1974 [this section] shall be effective as of the date of this order and the Energy Resources Council shall be deemed to have been activated as of that date.

SEC. 2. The Council shall consist of the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the National Science Foundation, the Administrator of General Services, the Chairman of the Federal Power Commission, the Assistant to the President for National security affairs, the Assistant to the President for Economic Affairs, the Assistant to the President for Domestic Affairs, the Special Assistant to the President for Consumer Affairs, and such other members as the President may, from time to time, designate. The Chairman shall be designated by the President.

SEC. 3. The Energy Resources Council shall perform such functions as are assigned to it by section 108 of the Energy Reorganization Act of 1974 [this section], shall develop a single national energy policy and program, and shall perform such other functions as may be assigned to it, from time to time, by the President.

SEC. 4. All departments and agencies shall cooperate with the Council and shall, to the extent permitted by law, provide it with such assistance and information as the Chairman of the Council may request.

SEC. 5. The Committee on Energy, the establishment of which was announced on June 14, 1974, is hereby abolished.

SEC. 6. The Council shall terminate in accordance with the provisions of section 108 of the Energy Reorganization Act of 1974 [this section].

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§ 5819. Report to Congress on future reorganization.

(a) The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.

(b) This report shall replace and serve the purposes of the report required by section 774(a)(4) of Title 15. (Pub. L. 93–438, title I, § 109, Oct. 11, 1974, 88 Stat. 1242.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5820. Coordination with environmental efforts.

The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication. (Pub. L. 93–438, title I, § 110, Oct. 11, 1974, 88 Stat. 1242.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

RESEARCH APPLIED TO NATIONAL NEEDS; COORDINATION OF ENERGY RESEARCH AND DEVELOPMENT ACTIVITIES

Section 5 of Pub. L. 94–86, Aug. 9, 1975, 88 Stat. 430, provided that: "In the conduct of the energy research and development activities under the 'Research Applied to National Needs' category, the National Science Foundation shall coordinate all new project awards with the Administrator of the Energy Research and Development Administration or his designee."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5818 of this title.

SUBCHAPTER II.—NUCLEAR REGULATORY COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5876 of this title.

§ 5841. Establishment and transfers.

(a) Composition; Chairman; Acting Chairman; quorum; official spokesman; seal; functions of Chairman and Commission.

(1) There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as chairman thereof to serve as such during the pleasure of the President. The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this chapter), (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(b) Appointment of members.

(1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Term of office.

Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.

(d) Submission of appointments to Senate.

Such initial appointments shall be submitted to the Senate within sixty days of October 11, 1974. Any individual who is serving as a member of the Atomic Energy Commission on October 11, 1974, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b) (2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) Removal of members; prohibition against engagement in business or other employment.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

(f) Transfer of licensing and regulatory functions of the Atomic Energy Commission.

There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 5814(c) of this title.

(g) Additional transfers.

In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibilities under section 5845 of this title, relating to, research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended, and of this chapter.

(Pub. L. 93–438, title II, § 201, Oct. 11, 1974, 88 Stat. 1242, amended Pub. L. 94–79, title II, §§ 201–203, Aug. 9, 1975, 89 Stat. 413, 414.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (g), is classified to section 2011 et seq. of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–79, § 201(1), (2), designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (c). Pub. L. 94–79, §§ 202, 203, provided for appointment for remainder of term where vacancy occurs prior to expiration of term of predecessor appointee and designated July 1, 1975, as commencement date of initial appointees for purpose of determining expiration date of terms of office.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

PLUTONIUM SHIPMENTS; RESTRICTIONS

Section 201 of Pub. L. 94–79 provided in part that: "The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however,* That any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft."

EX. ORD. NO. 11902. PROCEDURES FOR EXPORT LICENSING POLICY AS TO NUCLEAR MATERIALS AND EQUIPMENT

Ex. Ord. No. 11902, Feb. 2, 1976, 41 F.R. 4877, provided:

The Energy Reorganization Act of 1974 [this chapter] transferred to the United States Nuclear Regulatory Commission the licensing and related regulatory functions previously exercised by the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [section 2011 et sq. of this title].

The exercise of discretion and control over nuclear exports within the limits of law concerns the authority and responsibility of the President with respect to the conduct of foreign policy and the ensuring of the common defense and security.

It is essential that the Executive branch inform the Nuclear Regulatory Commission of its views before the Commission issues or denies a license, or grants an exemption.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State is designated to receive from the Nuclear Regulatory Commission a copy of each export license application, each proposal by the Nuclear Regulatory Commission to issue a general license for export, and each proposal by the Nuclear Regulatory Commission for exemption from the requirement for a license, which may involve a determination, pursuant to the Atomic Energy Act of 1954, as amended [section 2011 et seq. of this title], that the issuance of the license or exemption from the requirement for a license will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

(b) The Secretary of State shall ensure that a copy of each such application, proposed general license, or proposed exemption is received by the Secretary of Defense, the Secretary of Commerce, the Administrator of the United States Energy Research and Development Administration, hereinafter referred to as the Administrator, the Director of the Arms Control and Disarmament Agency, hereinafter referred to as the Director, and the head of any other department or agency which may have an interest therein, in order to afford them the opportunity to express their views, if any, on whether the license should be issued or the exemption granted.

SEC. 2. Within thirty days of receipt of a copy of a license application, proposed general license, or proposed exemption, the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other agency or department to which such copy has been transmitted, shall each transmit to the Secretary of State his views, if any, on whether and under what conditions the license should be issued or the exemption granted.

SEC. 3. The Secretary of State shall, after the provisions of section 2 of this order have been complied with, transmit to the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other department or agency who has expressed his views thereon, a proposed position of the Executive branch as to whether the license should be issued or the exemption granted, including a proposed judgment as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

SEC. 4. If the heads of departments and agencies specified in section 2 of this order are unable to agree upon a position for the Executive branch, the Secretary of State shall refer the matter to the Chairman of the Under Secretaries Committee of the National Security Council in order to obtain a decision. In the event the Under Secretaries Committee is unable to reach a decision, the Chairman of that Committee shall refer the matter to the President for his decision.

SEC. 5. The Secretary of State, after taking the actions required by this order, shall notify the Nuclear Regulatory Commission of the position of the Executive branch as to whether the license should be issued or the exemption granted, including the judgment of the Executive branch as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security. The Executive branch position shall be supported by relevant information and documentation as appropriate to the proceedings before the Nuclear Regulatory Commission.

GERALD R. FORD

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5845 of this title.

§ 5842. Licensing and related regulatory functions respecting selected Administration facilities.

Notwithstanding the exclusions provided for in section 2140(a) of this title or any other provisions of the Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission shall, except as otherwise specifically provided by section 2140(b) of this title, or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this

chapter—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration which are not used for, or are part of, research and development activities.

(Pub. L. 93–438, title II, § 202, Oct. 11, 1974, 88 Stat. 1244.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, and "such Act", referred to in text, is classified to section 2011 et seq. of this title and chapters, 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, are classified to subchapters V, VI, VII, and IX of chapter 23 of this title.

The effective date of this chapter, referred to in subsec. (b), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5843. Office of Nuclear Reactor Regulation.

(a) Establishment; appointment of Director.

There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director.

Subject to the provisions of this chapter, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities, and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary for the discharge of the functions of the Commission.

(c) Responsibility for safe operation of facilities.

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter. (Pub. L. 93–438, title II, § 203, Oct. 11, 1974, 88 Stat. 1244.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(1), is classified to section 2011 et seq. of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5844. Office of Nuclear Safety and Safeguards.

(a) Establishment; appointment of Director.

There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director.

Subject to the provisions of this chapter, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended, associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this chapter and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Responsibility for safeguarding special nuclear materials; high-level radioactive wastes and nuclear facilities.

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter. (Pub. L. 93–438, title II, § 204, Oct. 11, 1974, 88 Stat. 1245.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b), is classified to section 2011 et seq. of this title.

The effective date of this chapter, referred to in subsec. (b)(2)(C), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5845. Office of Nuclear Regulatory Research.

(a) Establishment; appointment of Director.

There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director.

Subject to the provisions of this chapter, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) Cooperation of federal agencies.

The Administrator of the Administration and the head of every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Responsibility for safety of activities.

Nothing in subsections (a) and (b) of this section or section 5841 of this title shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Information and research services.

Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire. (Pub. L. 93–438, title II, § 205, Oct. 11, 1974, 88 Stat. 1246.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5841 of this title.

§ 5846. Compliance with safety regulations.

(a) Notification to the Commission of noncompliance.

Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this chapter, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Penalty for failure to notify.

Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 2282 of this title.

(c) Posting of requirements.

The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) Inspection and enforcement.

The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section. (Pub. L. 93–438, title II, § 206, Oct. 11, 1974, 88 Stat. 1246.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsecs. (a) and (c), is classified to section 2011 et seq. of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5847. Nuclear energy center site survey.

(a)[1](1) The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and unranium[2] enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmision line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from October 11, 1974, and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable. (Pub. L. 93–438, title II, § 207, Oct. 11, 1974, 88 Stat. 1247.)

[1] So in original. Section enacted without a subsec. (b).

[2] So in original.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5848. Abnormal occurrence reports.

The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this chapter. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

(1) the date and place of each occurrence;

(2) the nature and probable consequence of each occurrence;

(3) the cause or causes of each; and

(4) any action taken to prevent reoccurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it. (Pub. L. 93–438, title II, § 208, Oct. 11, 1974, 88 Stat. 1248.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in text, is classified to section 2011 et seq. of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5849. Other officers.

(a) Executive Director.

The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Executive Director.

The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this chapter to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities.

(c) Additional officers.

There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to section 2201(d) of title. (Pub. L. 93–438, title II, § 209, Oct. 11, 1974, 88 Stat. 1248.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93-438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5843, 5844, 5845, of this title.

SUBCHAPTER III.—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

§ 5871. Transitional provisions.

(a) Except as otherwise provided in this chapter, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this chapter, have been transferred from that agency, or other body, or any component thereof by this chapter, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (sections 5313 to 5316 of Title 5), shall lapse.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter;

(2) which are in effect at the time this chapter takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this chapter shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (or component thereof) functions of which are transferred by this chapter; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this chapter had not been enacted.

(d) Except as provided in subsection (f) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to the date this chapter takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this chapter had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this chapter takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Administrator or Commission, or any other official, then such suit shall be continued as if this chapter had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this chapter. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) With respect to any functions transferred by this chapter and performed after the effective date of this chapter, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, the Administrator or Commission, or other office or official in which this chapter vests such functions.

(i) Nothing contained in this chapter shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this chapter; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) Any reference in this chapter to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this chapter, all functions expressly conferred by this chapter shall be in addition to and

not in substitution for functions existing immediately before the effective date of this chapter and transferred by this chapter. (Pub. L. 93–438, title III, § 301, Oct. 11, 1974, 88 Stat. 1248.)

REFERENCES IN TEXT

References to "at the time this chapter takes effect" in subsec. (b)(2), "the date this chapter takes effect" in subsec. (d)(1), "date on which this chapter takes effect" in subsec. (f), and "the effective date of this chapter" in subsecs. (g), (h), (i), and (k), refer to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5872 of this title.

§ 5872. Transfer of personnel.

(a) Except as provided in the next sentence, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and programs transferred by this chapter, are, subject to section 581c of Title 31, correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation at the rate prescribed for offices and positions at levels II, III, IV, or V of the Executive Schedule (sections 5313 to 5316 of Title 5) on the effective date of this chapter shall be subject to the provisions of subsection (c) of this section and section 5871 of this title.

(b) Except as provided in subsection (c) of this section, transfer of nontemporary personnel pursuant to this chapter shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) Any person who, on the effective date of this chapter, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of Title 5, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position. (Pub. L. 93–438, title III, § 302, Oct. 11, 1974, 88 Stat. 1250.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (a) and (c), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5873. Director of the Office of Management and Budget; power to make dispositions.

The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this chapter as he may deem necessary or appropriate to accomplish the intent and purpose of this chapter. (Pub. L. 93–438, title III, § 303, Oct. 11, 1974, 88 Stat. 1250.)

EFFECTIVE DATE

Section effective Jan 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5874. Definitions.

As used in this chapter—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

(Pub. L. 93–438, title III, § 304, Oct. 11, 1974, 88 Stat. 1251.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5875. Authorization of appropriations.

(a) Except as otherwise provided by law, appropriations made under this chapter shall be subject to annual authorization.

(b) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry. (Pub. L. 93–438, title III, § 305, Oct. 11, 1974, 88 Stat 1251.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5876. Comptroller General audit.

(a) Section 2206 of this title shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under subchapter I of this chapter and to the activities under subchapter II of this chapter.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of subchapter II of this chapter by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this chapter, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—

(1) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(2) an evaluation of the effect of such Commission activities on the efficiency, effectiveness,

and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended, are carried out;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of subchapter II of this chapter.

(Pub. L. 93–438, title III, § 306, Oct. 11, 1974, 88 Stat. 1251.)

REFERENCES IN TEXT

The effective date of this chapter referred to in subsec. (b), is the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(2), is classified to section 2011 et seq. of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5877. Reports to President for submission to Congress.

(a) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth its comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

(Pub. L. 93–438, title III, § 307, Oct. 11, 1974, 88 Stat. 1251.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5914 of this title.

§ 5878. Information to Congressional committees.

The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities. (Pub. L. 93–438, title III, § 308, Oct. 11, 1974, 88 Stat. 1252.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

§ 5878a. Report to Congressional Committees.

The Administrator shall, by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Administrator, and the extent to which small business involvement pursuant to section 5801(d) of this title is being encouraged by the Administration. (Pub. L. 94–187, title III, § 308, Dec. 31, 1975, 89 Stat. 1074.)

CODIFICATION

Section was not enacted as a part of the Energy Reorganization Act of 1974, which is classified to this chapter.

§ 5879. Transfer of funds.

The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year. (Pub. L. 93–438, title III, § 309, Oct. 11, 1974, 88 Stat. 1252.)

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

SUBCHAPTER IV.—SEX DISCRIMINATION

§ 5891. Sex discrimination prohibited.

No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any subchapter of this chapter. This provision will be enforced through

agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee. (Pub. L. 93–438, title IV, § 401, Oct. 11, 1974, 88 Stat. 1254.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in text, is classified to sections 2000d to 2000d–4 of this title.

EFFECTIVE DATE

Section effective Jan. 19, 1975, see section 312(a) of Pub. L. 93–438, and Ex. Ord. No. 11834, set out as notes under section 5801 of this title.

Chapter 74.—NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT [NEW]

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§ 5901. Congressional statement of findings.

The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy .

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development program designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other forms of energy. This failure is partially because the unconventional energy technologies have not been judged to be economically competitive with traditional energy technologies.

(c) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development, and demonstration program in nonnuclear energy technologies with a total Federal investment which may reach or exceed $20,000,000,000 over the next decade.

(d) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and particularly in the private sector.

(e) The Nation's future energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment. (Pub. L. 93–577, § 2, Dec. 31, 1974, 88 Stat. 1879.)

SHORT TITLE

Section 1 of Pub. L. 93–577 provided that: "This Act [enacting this chapter] may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974'."

§ 5902. Congressional declaration of policy and purpose; implementation and administration of program by Administrator of Energy Research and Development Administration.

(a) It is the policy of the Congress to develop on an urgent basis the technological capabilities to support the broadest range of energy policy options through conservation and use of domestic resources by socially and environmentally acceptable means.

(b) (1) The Congress declares the purpose of this chapter to be to establish and vigorously conduct a comprehensive, national program of basic and applied research and development, including but not limited to demonstrations of practical applications, of all potentially beneficial energy sources and utilization technologies, within the Energy Research and Development Administration.

(2) In carrying out this program, the Administrator of the Energy Research and Development Administration (hereinafter in this chapter referred to as the "Administrator") shall be governed by the terms of this Act and other applicable provisions of law with respect to all nonnuclear aspects of the research, development, and demonstration program; and the policies and provisions of the Atomic Energy Act of 1954, and other provisions of law shall continue to apply to the nuclear research, development, and demonstration program.

(3) In implementing and conducting the research, development, and demonstration programs pursuant to this chapter the Administrator shall incorporate programs in specific nonnuclear technologies previously enacted into law, including those established by the Solar Heating and Cooling Act of 1974, the Geothermal Energy Research, Development, and Demonstration Act of 1974, and the Solar Energy Research, Development, and Demonstration Act of 1974. (Pub. L. 93–577, § 3, Dec. 31, 1974, 88 Stat. 1879.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is classified to section 2011 et seq. of this title.

The Solar Heating and Cooling Act of 1974 and the Solar Energy Research, Development, and Demonstration Act of 1974, referred to in text, are classified to subchapters I and II, respectively, of chapter 71 of this title.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in text, is classified to section 1101 et seq. of Title 30, Mineral Lands and Mining.

§ 5903. Duties and functions of Administrator.

The Administrator shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, including research and development being conducted by Federal and non-Federal entities;

(b) formulate and carry out a comprehensive Federal nonnuclear energy research, development, and demonstration program which will expeditiously advance the policies established by this chapter and other relevant legislation establishing programs in specific energy technologies;

(c) utilize the funds authorized pursuant to this chapter to advance energy research and development by initiating and maintaining, through fund transfers, grants, or contracts, energy research, development and demonstration programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, industrial entities, and other non-Federal entities which are appropriate to each type of research, development, and demonstration activity;

(d) establish procedures for periodic consultation with representatives of science, industry, environmental organizations, consumers, and other groups who have special expertise in the areas of energy research, development, and technology; and

(e) initiate programs to design, construct, and operate energy facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing various forms of nonnuclear energy.

(Pub. L. 93–577, § 4, Dec. 31, 1974, 88 Stat. 1880.)

§ 5903a. Nonduplication of programs, projects, and research facilities.

The Administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities. (Pub. L. 94–187, title III, § 309, Dec. 31, 1975, 89 Stat. 1074.)

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974, which is classified to this chapter.

§ 5903b. Fossil fuels program.

The Administrator shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels. (Pub. L. 94–187, title III, § 316, Dec. 31, 1975, 89 Stat. 1077.)

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974, which is classified to this chapter.

§ 5904. Research, development, and demonstration program governing principles.

(a) The Congress authorizes and directs that the comprehensive program in research, development, and demonstration required by this chapter shall be designed and executed according to the following principles:

(1) Energy conservation shall be a primary consideration in the design and implementation of the Federal nonnuclear energy program. For the purposes of this chapter, energy conservation means both improvement in efficiency of energy production and use, and reduction in energy waste.

(2) The environmental and social consequences of a proposed program shall be analyzed and considered in evaluating its potential.

(3) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology and use on water resources pursuant to the provisions of section 5912 of this title.

(4) Heavy emphasis shall be given to those technologies which utilize renewable or essentially inexhaustible energy sources.

(5) The potential for production of net energy by the proposed technology at the stage of commercial application shall be analyzed and considered in evaluating proposals.

(b) The Congress further directs that the execution of the comprehensive research, development, and demonstration program shall conform to the following principles:

(1) Research and development of nonnuclear energy sources shall be pursued in such a way as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States.

(2) In determining the appropriateness of Federal involvement in any particular research and development undertaking, the Administrator shall give consideration to the extent to which the proposed undertaking satisfies criteria including, but not limited to, the following:

(A) The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.

(B) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.

(C) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.

(D) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(E) The degree of risk of loss of investment inherent in the research is high, and the availability or risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.

(F) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

(Pub. L. 93–577, § 5, Dec. 31, 1974, 88 Stat. 1880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5906, 5907 of this title.

§ 5905. Comprehensive plan and implementing program for energy research, development, and demonstration; transmission to Congress; purposes; scope of program.

(a) Pursuant to the authority and directions of this chapter and the Energy Reorganization Act of 1974, the Administrator shall transmit to the Congress, on or before June 30, 1975, a comprehensive plan for energy research, development, and demonstration. This plan shall be appropriately revised annually as provided in section 5914(a) of this title. Such plan shall be designed to achieve—

(1) solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems;

(2) solutions to middle-term (the early 1980's to 2000) energy supply system and associated environmental problems; and

(3) solutions to long-term (beyond 2000) energy supply system and associated environmental problems.

(b)(1) Based on the comprehensive energy research, development, and demonstration plan developed under subsection (a) of this section, the Administrator shall develop and transmit to the Congress, on or before June 30, 1975, a comprehensive nonnuclear energy research, development, and demonstration program to implement the nonnuclear

research, development, and demonstration aspects of the comprehensive plan.

(2) This program shall be designed to achieve solutions to the energy supply and associated environmental problems in the immediate and short-term (to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals. In formulating the nonnuclear aspects of this program, the Administrator shall evaluate the economic, environmental, and technological merits of each aspect of the program.

(3) The Administrator shall assign program elements and activities in specific nonnuclear energy technologies, to the short-term, middle-term, and long-term time intervals, and shall present full and complete justification for these assignments and the degree of emphasis for each. These program elements and activities shall include, but not be limited to, research, development, and demonstrations designed—

(A) to advance energy conservation technologies, including but not limited to—

(i) productive use of waste, including garbage, sewage, agricultural wastes, and industrial waste heat;

(ii) reuse and recycling of materials and consumer products;

(iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of efficient public transportation; and

(iv) advanced urban and architectural design to promote efficient energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and lighting fixtures;

(B) to accelerate the commercial demonstration of technologies for producing low-sulfur fuels suitable for boiler use;

(C) to demonstrate improved methods for the generation, storage, and transmission of electrical energy through (i) advances in gas turbine technologies, combined power cycles, the use of low British thermal unit gas and, if practicable, magnetohydrodynamics; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage systems; and (iii) improvement in cryogenic transmission methods;

(D) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided*, That the Administrator shall invite and consider proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(E) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided*, That the Administrator shall invite and consider proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchases of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(F) in accordance with the program authorized by the Geothermal Energy Research, Development, and Demonstration Act of 1974, to accelerate the commercial demonstration of geothermal energy technologies;

(G) to demonstrate the production of syncrude from oil shale by all promising technologies including in situ technologies;

(H) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(I) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications in accordance with the program authorized by the Solar Heating and Cooling Act of 1974;

(J) to accelerate the commercial demonstration of environmental control systems for energy technologies developed pursuant to this chapter;

(K) to investigate the technical and economic feasibility of tidal power for supplying electrical energy;

(L) to commercially demonstrate advanced solar energy technologies in accordance with the Solar Research, Development, and Demonstration Act of 1974;

(M) to determine the economics and commercial viability of the production of synthetic fuels such as hydrogen and methanol;

(N) to commercially demonstrate the use of fuel cells for central station electric power generation;

(O) to determine the economics and commercial viability of in situ coal gasification;

(P) to improve techniques for the management of existing energy systems by means of quality control; application of systems analysis, communications, and computer techniques; and public information with the objective of improving the reliability and efficiency of energy supplies and encourage the conservation of energy resources; and

(Q) to improve methods for the prevention and cleanup of marine oil spills.

(Pub. L. 93–577, § 6, Dec. 31, 1974, 88 Stat. 1881.)

REFERENCES IN TEXT

The Energy Reorganization Act of 1974, referred to in text, is classified principally to section 5801 et seq. of this title.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in text, is classified to section 1101 et seq. of Title 30, Mineral Lands and Mining.

The Solar Heating and Cooling Act of 1974 and the Solar Energy Research, Development, and Demonstration Act of 1974, referred to in text, are classified to subchapters I and II, respectively, of chapter 71 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5914 of this title.

§ 5906. Federal assistance and participation in programs.

(a) Forms of activities authorized.

In carrying out the objectives of this chapter, the Administrator may utilize various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities and nonprofit institutions;

(3) contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of the section;

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies; and

(6) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors.

(b) Proposed joint Federal-industry corporations; operational guidelines; powers, duties, and functions; composition; scope of Federal assistance and participation; dissolution.

Joint Federal industry corporations proposed for congressional authorization pursuant to this chapter shall be subject to the provisions of section 5908 of this title and shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation may design, construct, operate, and maintain one or more experimental, demonstration, or commercial-size facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants, as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (with the rates of compensation of all officers and employees being fixed by the Board); and

(C) the usual powers conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval, not to exceed 12 years, shall be established for the term of Federal participation in the corporation, at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest and consistent with existing law; and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions to which this chapter applies.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined in order to facilitate a single congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Administrator may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7)(A) Prior to the establishment of any joint Federal-industry corporation pursuant to this chapter, the Administrator shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate a report setting forth in detail the consistency of the establishment of the corporation with the principles and directives set forth in section 5904 of this title and this section, and the proposed purpose and planned activities of the corporation.

(B) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

(c) Proposed competitive systems of price supports for demonstration facilities; guidelines.

Competitive systems of price supports proposed for congressional authorization pursuant to this chapter shall conform to the following guidelines:

(1) The Administrator shall determine the types and capacities of the desired full-scale, com-

mercial-size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular nonnuclear energy technology.

(2) The Administrator may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to paragraph (1) of this subsection. Such planning grants may be awarded to Federal and non-Federal entities including, but not limited to, industrial entities, universities, and nonprofit organizations. Such planning grants may also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(3) Following the completion of the studies pursuant to the planning grants awarded under paragraph (2) of this subsection regarding each such potential price supported demonstration facility for which the Administrator intends to request congressional authorization, he shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Administrator may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities, (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed design and operation of the demonstration facility.

(4) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Environmental Protection Agency. If additional environmental requirements are imposed by the Administrator after the designation of the successful bidders and if such additional environmental requirements result in additional costs, the Administrator is authorized to renegotiate the support price to cover such additional costs.

(5) The estimated amount of the Federal price support for a demonstration facility's product over the life of such facility shall be determined by the Administrator to facilitate a single congressional authorization of the full amount of such support at the time of the designation of the successful bidders.

(6) No price support program shall be implemented unless previously authorized by specific legislation enacted by the Congress.

(d) Support for joint university-industry research efforts.

Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts. (Pub. L. 93–577, § 7, Dec. 31, 1974, 88 Stat. 1883.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5907 of this title.

§ 5907. Demonstration projects.

(a) Scope of authority of Administrator.

The Administrator is authorized to—

(1) identify opportunities to accelerate the commercial applications of new energy technologies, and provide Federal assistance for or participation in demonstration projects (including pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources); and

(2) enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

(b) Criteria applicable in reviewing potential projects.

In reviewing potential projects, the Administrator shall consider criteria including but not limited to—

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 5904(b)(2) of this title;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

(5) the total estimated cost including the Federal investment and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

(c) Federal and non-Federal share of costs.

(1) A financial award under this section may be made only to the extent of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs.

(2) For the purposes of this chapter the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

(d) Submission of proposals to Administration; promulgation of regulations by Administrator establishing procedures; required contents of proposals and regulations.

(1) The Administrator shall, within six months of December 31, 1974, promulgate regulations establishing procedures for submission of proposals to the Energy Research and Development Administration for the purposes of this chapter. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, conservation, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on, proposal requests for the purposes of implementing the goals and objectives of this chapter.

(2) Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in section 5906(a) of this title: *Provided*, That such proposals to the extent possible shall include, but not be limited to—

(A) specification of the technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate the plant and to dispose of salable products produced from the plant;

(G) analysis of the environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) plans for commercial use of the technology if the demonstration is successful;

(I) plans for continued use of the plant if the demonstration is successful; and

(J) plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned.

(3) The Administrator shall from time to time review and, as appropriate, modify and repromulgate regulations issued pursuant to this section.

(e) Amount of estimate of Federal investment requiring Congressional authorization for appropriation.

If the estimate of the Federal investment with respect to construction costs of any demonstration project proposed to be established under this section exceeds $50,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(f) Amount of estimated Federal contribution authorizing Administrator to proceed with negotiation of agreements and implementation of proposal; amount of Federal contribution requiring Administrator to submit report to Congress as prerequisite to expenditure of funds.

If the total estimated amount of the Federal contribution to the construction cost of a demonstration project does not exceed $50,000,000, the Administrator is authorized to proceed with the negotiation of agreements and implementation of the proposal subject to the availability of funds under the authorization of appropriations pursuant to section 5915 of this title: *Provided*, That if such Federal contribution to the construction cost is estimated to exceed $25,000,000 the Administrator shall provide a full and comprehensive report on the proposed demonstration project to the appropriate committees of the Congress and no funds may be expended for any agreement under the authority granted by this section prior to the expiration of sixty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Administrator's report on the proposed project is received by the Congress. Such reports shall contain an analysis of the extent to which the proposed demonstration satisfies the criteria specified in subsection (b) of this section. (Pub. L. 93–577, § 8, Dec. 31, 1974, 88 Stat. 1886.)

§ 5908. Patents and inventions.

(a) Vesting of title to invention and issuance of patents to United States; prerequisites.

Whenever any invention is made or conceived in the course of or under any contract of the Administration, other than nuclear energy research, development, and demonstration pursuant to the Atomic Energy Act of 1954 and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or demonstration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or demonstration work, but the invention is nevertheless related to the contract or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),[1]

title to such invention shall vest in the United States, and if patents on such invention are issued they shall be issued to the United States, unless in particular circumstances the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of this section.

(b) Contract as requiring report to Administration of invention, etc., made in course of contract.

Each contract entered into by the Administration with any person shall contain effective provisions under which such person shall furnish promptly to the Administration a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the course of or under such contract.

(c) Waiver by Administrator of rights of United States; regulations prescribing procedures; record of waiver determinations; objectives.

Under such regulations in conformity with the provisions of this section as the Administrator shall

[1] So in original. Probably should be a comma.

prescribe, the Administrator may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the course of or under any contract of the Administration if he determines that the interests of the United States and the general public will be best served by such waiver. The Administration shall maintain a publicly available, periodically updated record of waiver determinations. In making such determinations, the Administrator shall have the following objectives:

(1) Making the benefits of the energy research, development, and demonstration program widely available to the public in the shortest practicable time.

(2) Promoting the commercial utilization of such inventions.

(3) Encouraging participation by private persons in the Administration's energy research, development, and demonstration program.

(4) Fostering competition and preventing undue market concentration or the creation or maintenance of other situations inconsistent with the antitrust laws.

(d) Considerations applicable at time of contracting for waiver determination by Administrator.

In determining whether a waiver to the contractor at the time of contracting will best serve the interests of the United States and the general public, the Administrator shall specifically include as considerations—

(1) the extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

(2) the extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

(3) the extent to which the contractor's commercial position may expedite utilization of the research, development, and demonstration program results;

(4) the extent to which the Government has contributed to the field of technology to be funded under the contract;

(5) the purpose and nature of the contract, including the intended use of the result developed thereunder;

(6) the extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

(7) the extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

(8) the extent to which the Government intends to further develop to the point of commercial utilization the results of the contract effort;

(9) the extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

(10) the likely effect of the waiver on competition and market concentration; and

(11) in the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the Administrator as being consistent with the applicable policies of this section.

(e) Considerations applicable to identified invention for waiver determination by Administrator.

In determining whether a waiver to the contractor or inventor or rights to an identified invention will best serve the interests of the United States and the general public, the Administrator shall specifically include as considerations paragraphs (4) through (11) of subsection (d) of this section as applied to the invention and—

(1) the extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(2) the extent to which the plans, intentions, and ability of the contractor or inventor will obtain expeditious commercialization of such invention.

(f) Rights subject to reservation where title to invention vested in United States.

Whenever title to an invention is vested in the United States, there may be reserved to the contractor or inventor—

(1) a revocable or irrevocable nonexclusive, paid-up license for the practice of the invention throughout the world; and

(2) the rights to such invention in any foreign country where the United States has elected not to secure patent rights and the contractor elects to do so, subject to the rights set forth in paragraphs (2), (3), (6), and (7) of subsection (h) of this section: *Provided*, That when specifically requested by the Administration and three years after issuance of such a patent, the contractor shall submit the report specified in subsection (h)(1) of this section.

(g) Licenses to inventions; promulgation of regulations specifying terms and conditions; criteria and procedures for grant of exclusive or partially exclusive licenses; record of determinations.

(1) Subject to paragraph (2) of this subsection, the Administrator shall determine and promulgate regulations specifying the terms and conditions upon which licenses may be granted in any invention to which title is vested in the United.

(2) Pursuant to paragraph (1) of this subsection, the Administrator may grant exclusive or partially exclusive licenses in any invention only if, after notice and opportunity for hearing, it is determined that—

(A) the interests of the United States and the general public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to the point of practical or commercial applications;

(B) the desired practical or commercial applications have not been achieved, or are not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth

risk capital and expenses to bring the invention to the point of practical or commercial applications; and

(D) the proposed terms and scope of exclusivity are not substantially greater than necessary to provide the incentive for bringing the invention to the point of practical or commercial applications and to permit the licensee to recoup its costs and a reasonable profit thereon:

Provided, That, the Administrator shall not grant such exclusive or partially exclusive license if he determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates. The Administration shall maintain a publicly available, periodically updated record of determinations to grant such licenses.

(h) Required terms and conditions in waiver of rights or grant of exclusive or partially exclusive licenses.

Each waiver of rights or grant of an exclusive or partially exclusive license shall contain such terms and conditions as the Administrator may determine to be appropriate for the protection of the interests of the United States and the general public, including provisions for the following:

(1) Periodic written reports at reasonable intervals, and when specifically requested by the Administration, on the commercial use that is being made or is intended to be made of the invention.

(2) At least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the United States (including any Government agency) and States and domestic municipal governments, unless the Administrator determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(3) The right in the United States to sublicense any foreign government pursuant to any existing or future treaty of agreement if the Administrator determines it would be in the national interest to acquire this right.

(4) The reservation in the United States of the rights to the invention in any country in which the contractor does not file an application for patent within such time as the Administration shall determine.

(5) The right in the Administrator to require the granting of a nonexclusive, exclusive, or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, (A) to the extent that the invention is required for public use by governmental regulations, or (B) as may be necessary to fulfill health, safety, or energy needs, or (C) for such other purposes as may be stipulated in the applicable agreement.

(6) The right in the Administrator to terminate such waiver or license in whole or in part unless the recipient of the waiver or license demonstrates to the satisfaction of the Administrator that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(7) The right in the Administrator, commencing three years after the grant of a license and four years after a waiver is effective as to an invention, to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate the waiver or license in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing—

(A) if the Administrator determines, upon review of such material as he deems relevant, and after the recipient of the waiver or license, or other interested person, has had the opportunity to provide such relevant and material information as the Administrator may require, that such waiver or license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates; or

(B) unless the recipient of the waiver or license demonstrates to the satisfaction of the Administrator at such hearing that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(i) Publication in Federal Register by Administrator of waiver or license termination hearing requirements and availability of records.

The Administrator shall provide an annual periodic notice to the public in the Federal Register, or other appropriate publication, of the right to have a hearing as provided by subsection (h)(7) of this section, and of the availability of the records of determinations provided in this section.

(j) Small business status of applicant for waiver or licenses.

The Administrator shall, in granting waivers or licenses, consider the small business status of the applicant.

(k) Protection of invention, etc., rights by Administrator.

The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which the United States holds title, and to require that contractors or persons who acquire rights to inventions under this section protect such inventions.

(*l*) Administration as defense agency of United States for purpose maintaining secrecy of inventions.

The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of Title 35.

(m) Definitions.

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any contract, grant, agreement, understanding, or other arrangement, which includes research, development,

or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(4) the term "invention" means inventions or discoveries, whether patented or unpatented; and

(5) the term "contractor" means any person having a contract with or on behalf of the Administration.

(n) Report concerning applicability of existing patent policies to energy programs; time for submission to President and appropriate congressional committees.

Within twelve months after December 31, 1974, the Administrator with the participation of the Attorney General, the Secretary of Commerce, and other officials as the President may designate, shall submit to the President and the appropriate congressional committees a report concerning the applicability of existing patent policies affecting the programs under this chapter, along with his recommendations for amendments or additions to the statutory patent policy, including his recommendations on mandatory licensing, which he deems advisable for carrying out the purposes of this chapter. (Pub. L. 93–577, § 9, Dec. 31, 1974, 88 Stat. 1887.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is classified to section 2011 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5906 of this title.

§ 5909. Relationship to antitrust laws.

(a) Nothing in this chapter shall be deemed to convey to any individual corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 2, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub. L. 93–577, § 10, Dec. 31, 1974, 88 Stat. 1891.)

§ 5910. Environmental evaluations by Council on Environmental Quality.

(a) Continuing analysis of effect of nonnuclear energy technologies.

The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the effect of application of nonnuclear energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods; and

(2) the adequacy of attention to environmental protection and the environmental consequences of the application of energy technologies.

(b) Employment of consultants or contractors and services of other Federal agencies for studies and investigations.

The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) Annual public hearings on conduct of energy research and development and environmental consequences; availability of transcript.

The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the development and application of energy technologies. The transcript of the hearings shall be published and made available to the public.

(d) Reports to President, Administrator, and Congress; inclusion by President of findings of Council in annual Environmental Quality Report.

The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development. The President as a part of the annual Environmental Policy Report required by section 4341 of this title shall set forth the findings of the Council on Environmental Quality concerning the probable environmental consequences of trends in the development and application of energy technologies. (Pub. L. 93–577, § 11, Dec. 31, 1974, 88 Stat. 1892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5915 of this title.

§ 5911. Allocation or acquisition of essential materials and equipment pursuant to Presidential rule or order; transmission to Congress and effective date of proposed rule or order; disapproval by Congress.

(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he finds that—

(1) such supplies are scarce, critical, and essential to carry out the purposes of this chapter; and

(2) such supplies cannot reasonably be obtained without exercising the authority granted by this section.

(b) The President shall transmit any rule or order proposed under subsection (a) of this section (bearing an identification number) to each House of Congress on the date on which it is proposed. If such proposed rule or order is transmitted to the Congress such proposed rule or order shall take effect at the end of the first period of thirty calendar days of continuous session of Congress after the date on which such proposed rule or order is transmitted to it unless, between the date of transmittal and the

end of the thirty day period, either House passes a resolution stating in substance that such House does not favor such a proposed rule or order. (Pub. L. 93–577, § 12, Dec. 31, 1974, 88 Stat. 1892.)

§ 5912. Water resource assessments.

(a) Request by Administrator for assessment by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements.

At the request of the Administrator, the Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, State water laws, and water rights granted pursuant to State and Federal law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process; and

(7) consult with the Council on Environmental Quality.

(b) Assessment by Administrator or others of availability of adequate water resources as precondition for Federal assistance for proposed demonstration project; publication of report in Federal Register.

For any proposed demonstration project which may involve a significant impact on water resources, the Administrator shall, as a precondition of Federal assistance to that project, prepare or have prepared an assessment of the availability of adequate water resources. A report on the assessment shall be published in the Federal Register for public review thirty days prior to the expenditure of Federal funds on the demonstration.

(c) Assessment by Water Resources Council of availability of adequate water resources as precondition for Federal assistance for commercial application of nonnuclear energy technologies.

For any proposed Federal assistance for commercial application of energy technologies pursuant to this chapter, the Water Resource Council shall, as a precondition of such Federal assistance, provide to the Administrator an assessment of the availability of adequate water resources for such commercial application and an evaluation of the environmental, social, and economic impacts of the dedication of water to such uses.

(d) Publication of reports of assessments and evaluations by Water Resources Council in Federal Register; public review and comments.

Reports of assessments and evaluations prepared by the Council pursuant to subsections (a) and (c) of this section shall be published in the Federal Register and at least ninety days shall be provided for public review and comment. Comments received shall accompany the reports when they are submitted to the Administrator and shall be available to the public.

(e) Inclusion of survey and analysis of regional and national water resource availability in biennial assessment by Water Resources Council.

The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 1962 a–1(a) of this title. (Pub. L. 93–577, § 13, Dec. 31, 1974, 88 Stat. 1893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5904, 5915 of this title.

§ 5913. Evaluation by National Bureau of Standards of energy-related inventions prior to awarding of grants by Administrator; promulgation of regulations.

The National Bureau of Standards shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual inventors and small companies for the purpose of obtaining direct grants from the Administrator. The National Bureau of Standards is authorized to promulgate regulations in the furtherance of this section. (Pub. L. 93–577, § 14, Dec. 31, 1974, 88 Stat. 1894.)

§ 5914. Reports to Congress.

(a) Required contents.

Concurrent with the submission of the President's annual budget to the Congress, the Administrator shall submit to the Congress each year—

(1) a report detailing the activities carried out pursuant to this chapter during the preceding fiscal year;

(2) a detailed description of the comprehensive plan for nuclear and nonnuclear energy research, development, and demonstration then in effect under section 5905(a) of this title; and

(3) a detailed description of the comprehensive nonnuclear research, development, and demonstration program then in effect under section 5905(b) of this title including its program elements and activities,

setting forth such modifications in the comprehensive plan referred to in clause (2) and the comprehensive program referred to in clause (3) as may be necessary to revise appropriately such plan and program in the light of the activities referred to in clause (1) and any changes in circumstances which may have occurred since the last previous report under this subsection.

(b) Additional required contents.

The description of the comprehensive nonnuclear research, development, and demonstration program

submitted under subsection (a)(2) of this section shall include a statement setting forth—

(1) the anticipated research, development, and application objectives to be achieved by the proposed program;

(2) the economic, environmental, and societal significance which the proposed program may have;

(3) the total estimated cost of individual program items;

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the research and development program;

(5) the relationship of the proposed program to any Federal national energy or fuel policies; and

(6) the relationship of any short-term undertakings and expenditures to long-range goals.

(c) Satisfaction of requirements for reports relating to development of energy sources.

The reports required by subsections (a) and (b) of this section will satisfy the reporting requirements of section 5877(a) of this title insofar as is concerned activities, goals, priorities, and plans of the Energy Research and Development Administration pertaining to nonnuclear energy. (Pub. L. 93–577, § 15, Dec. 31, 1974, 88 Stat. 1894.)

SOLAR ENERGY: DIVISION PERSONNEL LEVELS AND PROGRESS TOWARD OBJECTIVES

Pub. L. 94–187, title III, § 311, Dec. 31, 1975, 89 Stat. 1074, provided that:

"As a part of the annual report required by section 15(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914(a)(1), the Administrator shall:

"(a) detail the Solar Energy Division personnel level recommended for the current fiscal year by the Administrator and submitted to the Office of Management and Budget, and the personnel level authorized upon review by that Office; and

"(b) detail progress toward competition by January 1, 1980, of the objectives of the Solar Energy Research Development, and Demonstration Act of 1974 (42 U.S.C. 5551, et seq.)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5905 of this title.

§ 5915. Authorization of appropriations.

(a) There may be appropriated to the Administrator to carry out the purposes of this chapter such sums as may be authorized in annual authorization Acts.

(b) Of the amounts appropriated pursuant to subsection (a) of this section—

(1) $500,000 annually shall be made available by fund transfer to the Council on Environmental Quality for the purposes authorized by section 5910 of this title; and

(2) not to exceed $1,000,000 annually shall be made available by fund transfer to the Water Resources Council for the purposes authorized by section 5912 of this title.

(c) There also may be appropriated to the Administrator by separate Acts such amounts as are required for demonstration projects for which the total Federal contribution to construction costs exceeds $50,000,000. (Pub. L. 93–577, § 16, Dec. 31, 1974, 88 Stat. 1894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5907 of this title.

§ 5916. Central source of nonnuclear energy information; acquisition of proprietary and other information; availability of information to public, Government agencies, Federal agencies and agency heads for execution of duties and responsibilities, and chairmen of Congressional Committees; disclosure restrictions.

The Administrator shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the Administrator's research, development, and demonstration mission carried out directly or indirectly under this chapter. When the Administrator determines that such information is needed to carry out the purposes of this chapter, he may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of Title 5 and section 1905 of Title 18, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of Title 18: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this chapter, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, when necessary to carry out their duties and responsibilities under this chapter and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman. (Pub. L. 93–577, § 17, as added Pub. L. 94–187, title III, § 312, Dec. 31, 1975, 89 Stat. 1075.)

§ 5917. Energy information.

The Administrator is, upon request, authorized to obtain energy information under section 796(d) of Title 15. (Pub. L. 93–577, § 18, as added Pub. L. 94–187, title III, § 313, Dec. 31, 1975, 89 Stat. 1075.)

Chapter 75—DEVELOPMENTALLY DISABLED ASSISTANCE AND BILL OF RIGHTS [NEW]

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EX. ORD. NO. 11776. PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Ex. Ord. No. 11776, Mar. 28, 1974, 39 F.R. 11865, provided:

The President's Committee on Mental Retardation, established by Executive Order No. 11280 on May 11, 1966, has mobilized national planning and carried out basic programs in the field of mental retardation. National goals have been established to reduce the occurrence of mental retardation by one-half before the end of the century and to return one-third of the people in mental institutions to useful lives in their communities. The achievement of these goals will require the most effective possible use of public and private resources.

Our country has become increasingly aware in recent years of the need to assure those who are retarded their full status as citizens under the law, and of the continuing need to mobilize the support of the general public and of specialized professional and volunteer groups for mental retardation activities. We also know that we must constantly evaluate existing programs to determine their adequacy and must continually consider a broad range of proposals for new mental retardation activities.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Committee continued and responsibilities expanded.* The President's Committee on Mental Retardation (hereinafter referred to as the Committee), with expanded membership and expanded responsibilities, is hereby continued in operation.

SEC. 2. *Composition of Committee.* The Committee shall be composed of the following members:

(1) The Secretary of Health, Education, and Welfare, who shall be the Chairman of the Committee.

(2) The Attorney General.

(3) The Secretary of Labor.

(4) The Secretary of Housing and Urban Development.

(5) The Director of the Office of Economic Opportunity.

(6) The Director of ACTION.

(7) Not more than twenty-one other members who shall be appointed to the Committee by the President. These persons may be employed in either the public or the private sectors and may include specialists in medicine and other healing arts, human development, special education, law, and employment problems, as well as members of foundations and other private organizations active in the mental retardation field. Except as the President may from time to time otherwise direct, appointees under this paragraph shall have three-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

SEC. 3. *Functions of the Committee.* (a) The Committee shall provide such advice and assistance in the area of mental retardation as the President or Secretary of the Department of Health, Education, and Welfare may request and particularly shall advise with respect to the following areas.

(1) evaluation of the adequacy of the national effort to combat mental retardation;

(2) identification of the potential of various Federal programs for achieving Presidential goals in mental retardation;

(3) provision of adequate liaison between Federal activities and related activities of State and local governments, foundations, and other private organizations; and

(4) development and dissemination of such information as will tend to reduce the incidence of retardation and ameliorate its effects.

(b) The Committee shall make an annual report to the President concerning mental retardation. Such additional reports or recommendations may be made as the President may require or as the Committee may deem appropriate.

SEC. 4. *Cooperation by other agencies.* To assist the Committee in providing advice to the President, Federal departments and agencies requested to do so by the Committee shall designate liaison officers with the Committee. Such officers shall, on request by the Committee, and to the extent permitted by law, provide it with information on department and agency programs which do contribute to or which could contribute to achievement of the President's goals in the field of mental retardation.

SEC. 5. *Administrative arrangements.* (a) The office of the Secretary of the Department of Health, Education, and Welfare shall, to the extent permitted by law, provide the Committee with necessary staff, administrative services, and facilities.

(b) Each member of the Committee, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Committee, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(c) The Secretary of Health, Education, and Welfare shall perform such other functions with respect to the Committee as may be required by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I; 86 Stat. 770).

SEC. 6. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

SEC. 7. Executive Order No. 11280 of May 11, 1966, is hereby superseded.

RICHARD NIXON.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Terms of the President's Committee on Mental Retardation extended until Jan. 5, 1977, unless terminated sooner, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of Title 5, Government Organization and Employees.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 6001. Definitions.

For purposes of this chapter:

(1) The term "State" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(3) The terms "nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(4) The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

(5) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

(6) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(7) The term "developmental disability" means a disability of a person which—

(A) (i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

(B) originates before such person attains age eighteen;

(C) has continued or can be expected to continue indefinitely; and

(D) constitutes a substantial handicap to such person's ability to function normally in society.

(8) The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(9) The term "satellite center" means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to

others responsible for the care of persons with developmental disbalities.

(10) The term "university affiliated facility" means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities and which provides education and training (including interdisciplinary training) of personnel needed to render services to persons with developmental disabilities.

(11) The term "Secretary" means the Secretary of Health, Education, and Welfare. (Pub. L. 88–164, title I, § 102, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 496.)

PRIOR PROVISIONS

Provisions similar to those comprising subds. (1) to (8) and 11 of this section were contained in Pub. L. 88–164, title IV, § 401, Oct. 31, 1963, 77 Stat. 296; Pub. L. 90–31, § 4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, §§ 102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54–56; Pub. L. 91–517, title I, § 102(a), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94–63, title III, § 305(a), July 29, 1975, 89 Stat. 333 (formerly classified to section 2691 (a), (b), (d)–(g), and (k)–(m) of this title) prior to repeal of section 401 of Pub. L. 88–164, as amended by Pub. L. 94–103, § 302(c).

EFFECTIVE DATE

Section 303 of Pub. L. 94–103 provided that: "The amendments made by this Act [see Short Title note under this section] shall take effect with respect to appropriations under the Act for fiscal years beginning after June 30, 1975."

SHORT TITLE

Section 1 of Pub. L. 94–103 provided that: "This Act [which enacted sections 6001 to 6006, 6009 to 6012, 6031 to 6033, 6041 to 6043, 6067, 6068, and 6081 of this title; amended sections 6007, 6008, 6061 to 6066, and 6068 of this title; eliminated former sections 295 to 295d–1, 2661 to 2666, and 2678 to 2678d of this title; repealed sections 2670, 2675, 2676, 2691, and 2693 to 2697b of this title; transferred sections 2671 to 2674 and 2677 to 2677c of this title; and enacted provisions set out as notes under sections 6001, 6007, and 6010 of this title] may be cited as the 'Developmentally Disabled Assistance and Bill of Rights Act'."

Section 101 of Pub. L. 88–164, title I, as added by Pub. L. 94–103, title I, § 125, provided that: "This title [this chapter] may be cited as the Developmental Disabilities Services and Facilities Construction Act'."

REPORT AND STUDY; REPORT TO CONGRESS AND CONGRESSIONAL COMMITTEES

Section 301 of Pub. L. 94–103 provided that:

"(a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall, in accordance with section 101(7) of the Act (defining the term 'developmental disability') (as amended by title I of this Act) [par. (7) of this section], determine the conditions of persons which should be included as developmental disabilities for purposes of the programs authorized by title I of the Act [this chapter]. Within six months of the date of enactment of this Act [Oct. 4, 1975] the Secretary shall make such determination and shall make a report thereon to the Congress specifying the conditions which he determined should be so included, the conditions which he determined should not be so included, and the reasons for each such determination. After making such report, the Secretary shall periodically, but not less often than annually, review the conditions not so included as developmental disabilities to determine if they should be so included. The Secretary shall report to the Congress the results of each such review.

"(b)(1) The Secretary shall contract for the conduct of an independent objective study to determine (A) if the basis of the definition of the developmental disabilities (as amended by title I of this Act) [par. (7) of this section] with respect to which assistance is authorized under such title [this chapter] is appropriate and, to the extent that it is not, to determine an appropriate basis for determining which disabilities should be included and which disabilities should be excluded from the definition, and (B) the nature and adequacy of services provided under other Federal programs for persons with disabilities not included in such definition.

"(2) A final report giving the results of the study required by paragraph (1) and providing specifications for the definition of developmental disabilities for purposes of title I of the Act [this chapter] shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than eighteen months after the date of enactment of this Act [Oct. 4, 1975]."

§ 6002. Federal share.

(a) Percentage limitation.

The Federal share of any project to be provided through grants under subchapter II of this chapter and allotments under subchapter III of this chapter may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

(b) Non-Federal share; medium of payment.

The non-Federal share of the cost of any project assisted by a grant or allotment under this chapter may be provided in kind.

(c) State expenditures.

For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under subchapter III of this chapter or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under subchapter II of this chapter. (Pub. L. 88–164, title I, § 103, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 88–164, title IV, § 401(h), Oct. 31, 1963, 77 Stat. 296; Pub. L. 91–211, title I, § 104, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91–517, title I, § 102(a)(4), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94–63, title III, § 305(a), July 29, 1975, 89 Stat. 333 (formerly classified to section 2691(h) of this title) prior to repeal of section 401 of Pub. L. 88–164, as amended by Pub L. 94–103, § 302(c).

Provisions similar to those comprising subsecs. (a) and (c) of this section were contained in Pub. L. 88–164, title I, § 137(a)(2), (b), as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, and amended Pub. L. 93–45, title III, § 301(c) (formerly classified to section 2377(a)(2), (b), of this title) prior to general revision of title I of Pub. L. 88–164 by Pub. L. 94–103.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6003. State control of operations.

Except as otherwise specifically provided, nothing in this chapter shall be construed as conferring on any Federal officer or employee the right to exercise

any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this chapter. (Pub. L. 88–164, title I, § 104, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title IV, § 406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(e), July 29, 1975, 89 Stat. 334 (formerly classified to section 2696 of this title) prior to repeal of section 406 of Pub. L. 88–164, as amended by Pub. L. 94–103, § 302(c).

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6004. Records and audit.

(a) Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this chapter that are pertinent to such assistance. (Pub. L. 88–164, title I, § 105, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title IV, § 408, as added Pub. L. 89–105, § 3, Aug. 4, 1965, 79 Stat. 429 (formerly classified to section 2697 of this title) prior to repeal of section 408 of Pub. L. 88–164 by Pub. L. 94–103, § 302(c).

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6005. Employment of handicapped individuals.

As a condition of providing assistance under this chapter, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts. (Pub. L. 88–164, title I, § 106, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

REFERENCES IN TEXT

Rehabilitation Act of 1973, referred to in text, is classified to chapter 16 (section 701 et seq.) of Title 29, Labor.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6006. Recovery of expenditures under certain conditions; lien.

If any facility with respect to which funds have been paid under subchapter II or III of this chapter shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities. (Pub. L. 88–164, title I, § 107, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 499.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title I, § 125, formerly 124, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91–517, title II, §§ 201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326 (formerly classified to section 2664 of this title) prior to general revision of title I of Pub. L. 88–164 by Pub. L. 94–103.

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title IV, § 405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, § 305(d), July 29, 1975, 89 Stat. 334 (formerly classified to section 2695 of this title) prior to repeal of section 405 of Pub. L. 88–164, as amended by Pub L. 94–103, § 302(c).

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6007. National Advisory Council on Services and Facilities for the Developmentally Disabled.

(a) Establishment; membership; ex officio members; representation of interests; designation of Chairman; meetings; nonapplication of Federal Advisory Committee Act to duration of Council.

(1) There is established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter in this section referred to as the "Council") which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the

Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to the provisions of Title 5 governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

(3) The Council shall meet at least twice a year.

(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council.

(b) Terms of office; reappointment limitation.

Each member of the Council shall hold office for a term of four years. An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member.

(c) Duties and functions.

It shall be the duty and function of the Council to—

(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this chapter;

(2) study and evaluate programs authorized by this chapter to determine their effectiveness in carrying out the purposes for which they were established;

(3) monitor the development and execution of this chapter and report directly to the Secretary any delay in the rapid execution of this chapter;

(4) review grants made under this chapter and advise the Secretary with respect thereto; and

(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this chapter.

(d) Technical and clerical assistance; statistical and other pertinent data.

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

(e) Compensation and travel expenses.

Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS–18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, all of the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. (Pub. L. 88–164, title I, § 108, formerly § 133, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1318, renumbered and amended Pub. L. 94–103, title I, § 126(a), Oct. 4, 1975, 89 Stat. 499.)

REFERENCES IN TEXT

Federal Advisory Committee Act, referred to in subsec. (a)(4), is set out in Appendix I of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 2673 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–103, § 126(a)(1), substituted provisions for a Council of nine ex officio members and sixteen appointed members for prior provision for a Council of twenty appointed members, listed the ex officio membership substituted provision for selection of appointees from advocates in the field of services to persons with developmental disabilities for prior provision for selection of members "from leaders in the fields of service to the mentally retarded and other persons with developmental disabilities", substituted provision for representation by at least five persons with developmental disabilities or the parents or guardians of such persons for prior provision for such representation by at least five consumers of such services, required at least two meetings a year, and made the Federal Advisory Committee Act inapplicable to the duration of the Council.

Subsec. (b). Pub. L. 94–103, § 126(a)(2), substituted "Each appointed member" for "Each member", deleted provision respecting making appointments in the case of vacancies only for the remainder of the unexpired term and provision respecting appointment of original appointees five for a three year, five for a two year, and five for a one year term, and required a two year period from expiration of his term before former member may be reappointed to another term.

Subsec. (c). Pub. L. 94–103, § 126(a)(3), incorporated existing provisions in cls. (1) and (2) and added cls. (3), (4), and (5).

Subsec. (e). Pub. L. 94–103, § 126(a)(4), substituted "Appointed members" and "all of the members" for "Members" and "they", respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

TERMS OF OFFICE OF EXISTING MEMBERS; VACANCIES AFTER OCT. 4, 1975; EX OFFICIO MEMBERS, TERM AS OF OCT. 4, 1975

Section 126(b) of Pub. L. 94–102 provided that: "The amendments made by subsection (a) [to this section] do not affect the term of office of persons who on the date of the enactment of this Act [Oct. 4, 1975] are members of the National Advisory Council on Services and Facilities for the Developmentally Disabled. The Secretary of Health, Education, and Welfare shall make appointments

to such Council in accordance with section 108 of the Act [this section] as vacancies occur in the membership of such Council on and after the date of the enactment of this Act [Oct. 4, 1975]. The ex officio members prescribed by section 108 of the Act [this section] shall take office as of the date of the enactment of this Act [Oct. 4, 1975]."

§ 6008. Promulgation of regulations.

The Secretary, as soon as practicable, by general regulations applicable uniformly to all the States, shall prescribe—

(1) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under subchapter III of this chapter, and the categories of persons for whom such services may be provided;

(2) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under subchapter III of this chapter;

(3) the general manner in which a State, in carrying out its State plan approved under subchapter III of this chapter, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

(4) general standards of construction and equipment for facilities of different classes and in different types of location.

Regulations of the Secretary shall provide for approval of an application submitted by a State for a project to be completed by two or more political subdivisions, by two or more public or nonprofit private entities, or by any combination of such subdivisions and entities. Within one hundred and eighty days of the date of the enactment of any amendments to this chapter, the Secretary shall promulgate such regulations as may be required for implementation of such amendments. (Pub. L. 88–164, title I, § 109, formerly § 139, as added Pub. L. 91–517, title I, § 101 (b), Oct. 30, 1970, 84 Stat. 1323, renumbered and amended Pub. L. 94–103, title I, § 127, Oct. 4, 1975, 89 Stat. 500.)

CODIFICATION

Section was formerly classified to section 2677b of this title.

AMENDMENTS

1975—Pub. L. 94–103 substituted "subchapter III of this chapter" for "this subchapter" wherever appearing, substituted numerical (1) to (4) for alphabetical (a) to (d) paragraph designations, deleted provision for promulgation of regulations only after consultation by the Secretary with the Council and added provisions respecting combination projects and promulgation of regulations for implementation of amendments to this chapter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6042 of this title.

§ 6009. Evaluation system.

(a) Development; time-phased plan.

The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall within two years of October 4, 1975, develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this chapter. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this chapter, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this chapter, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

(b) Statement of purpose.

The evaluation system to be developed under subsection (a) of this section shall—

(1) provide objective measures of the developmental progress of persons with developmental disabilities using data obtained from individualized habilitation plans as required under section 6011 of this title or other comparable individual data;

(2) provide a method of evaluating programs providing services for persons with developmental disabilities which method uses the measures referred to in paragraph (1); and

(3) provide effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

(c) Report to Congress.

Not later than two years after October 4, 1975, the Secretary shall submit to the Congress a report on the evaluation system developed pursuant to subsection (a) of this section. Such report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.

(d) Grants and contracts; exception.

The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may make grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a) of this section, except that such a grant or contract may not be entered into with entities or individuals who have any financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to section 529 of Title 31 and section 5 of Title 41. (Pub. L. 88–164, title I, § 110, as added Pub. L. 94–103, title I, § 128, Oct. 4, 1975, 89 Stat. 501.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30,

1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6063 of this title.

§ 6010. Congressional findings respecting rights of the developmentally disabled.

Congress makes the following findings respecting the rights of persons with developmental disabilities:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

(Pub. L. 88–164, title I, § 111, as added Pub. L. 94–103, title II, § 201, Oct. 4, 1975, 89 Stat. 502.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

STUDIES AND RECOMMENDATIONS; REVIEW AND EVALUATION; REPORT TO CONGRESSIONAL COMMITTEES

Section 204 of Pub. L. 94–103 provided that:

"(a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall conduct or arrange for the conduct of the following:

"(1) A review and evaluation of the standards and quality assurance mechanisms applicable to residential facilities and community agencies under the Rehabilitation Act of 1973 [section 701 et seq. of Title 29], titles I and VI of the Elementary and Secondary Education Act of 1965 [section 241a et seq. of Title 20; see notes under former sections 871 to 880a of Title 20], titles XVII, XIX, and XX of the Social Security Act [sections 1395 et seq., 1396 et seq., and 1397 et seq. of this title], and any other Federal law administered by the Secretary. Such standards and mechanisms shall be reviewed and evaluated (A) for their effectiveness in assuring the rights, described in section 111 of the Act [this section], of persons with developmental disabilities, (B) for their effectiveness in insuring that services rendered by such facilities and agencies to persons with developmental disabilities are consistent with current concepts of quality care concerning treatment, services, and habilitation of such persons, (C) for conflicting requirements, and (D) for the relative effectiveness of their enforcement and the degree and extent of their effectiveness.

"(2) The development of recommendations for standards and quality assurance mechanisms (including enforcement mechanisms) for residential facilities and community agencies providing treatment, services, or habilitation for persons with developmental disabilities which standards and mechanisms will assure the rights stated in section 111 of the Act [this section]. Such recommendations shall be based upon performance criteria for measuring and evaluating the developmental progress of persons with developmental disabilities which criteria are consistent with criteria used in the evaluation system developed under section 110 of the Act [section 6009 of this title].

"(3) The development of recommendations for changes in Federal law and regulations administered by the Secretary after taking into account the review and evaluation under paragraph (1) and the recommended standards or mechanisms developed under paragraph (2).

"(b)(1) The Secretary may in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, obtain (through grants or contracts) the assistance of public and private entities in carrying out subsection (a).

"(2) In carrying out subsection (a), the Secretary shall consult with appropriate public and private entities and individuals for the purpose of receiving their expert assistance, advice, and recommendations. Such agencies and

individuals shall include persons with developmental disabilities, representative of such individuals, the appropriate councils of the Joint Commission on Accreditation of Hospitals, providers of health care, and State agencies. Persons to be consulted shall include the following officers of the Department of Health, Education, and Welfare: The Commissioner of the Medical Services Administration, the Commissioner of the Rehabilitation Services Administration, the Deputy Commissioner of the Bureau of Education for the Handicapped, the Assistant Secretary for Human Development, the Commissioner of the Community Services Administration, and the Commissioner of the Social Security Administration.

"(c) The Secretary shall within eighteen months after the date of enactment of this Act [Oct. 4, 1975] complete the review and evaluation and development of recommendations prescribed by subsection (a) and shall make a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on such review and evaluation and recommendations."

§ 6011. Habilitation plans.

(a) Condition for receipt of State allotment.

The Secretary shall require as a condition to a State's receiving an allotment under subchapter III of this chapter after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b) of this section, and (2) provides for an annual review, in accordance with subsection (c) of this section, of each such plan.

(b) Requirements.

A habilitation plan for a person with developmental disabilities shall meet the following requirements:

(1) The plan shall be in writing.

(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (c) where appropriate, such person's parents or guardian or other representative.

(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(c) Annual review.

Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the deliverery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision. (Pub. L. 88–164, title I, § 112, as added Pub. L. 94–103, title II, § 202, Oct. 4, 1975, 89 Stat. 503.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6009 of this title.

§ 6012. Protection and advocacy of individual rights; state allotments; authorization of appropriations.

(a) The Secretary shall require as a condition to a State receiving an allotment under subchapter III of this chapter for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under subchapter III of this chapter to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

(b)(1) To assist States in meeting the requirements of subsection (a) of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a)(1)(A) and (d) of section 6062 of this title.

(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978. (Pub. L. 88–164, title I, § 113, as added Pub. L. 94–103, title II, § 203, Oct. 4, 1975, 89 Stat. 504.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SUBCHAPTER II.—UNIVERSITY AFFILIATED FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6002, 6006 of this title.

PART I.—DEMONSTRATION AND TRAINING GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3195 of this title.

§ 6031. Grant authority; satellite centers.

(a) (1) From appropriations under section 6033 of this title, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating—

(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

(B) interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities.

(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed $25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a) (2) of this section. (Pub. L. 88–164, title I, § 121, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6032, 6033, 6041 of this title.

§ 6032. Applications.

(a) Approval by Secretary.

No grant may be made under section 6031 of this title unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds.

(b) Special consideration for community rather than institutional services.

The Secretary shall give special consideration to applications for grants under section 6031(a) of this title for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities. (Pub. L. 88–164, title I, § 122, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 487.)

PRIOR PROVISIONS

Provisions similar to those comprising last sentence of subsec. (a) of this section were contained in Pub. L. 88–164, title I, § 127, as added Pub. L. 91–517, title II, § 206, Oct. 30, 1970, 84 Stat. 1326 (formerly classified to section 2666 of this title) prior to general revision of title I of Pub. L. 88–164 by Pub. L. 94–103.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6033. Authorization of appropriations.

(a) For the purpose of making grants under section 6031 of this title there are authorized to be appropriated $15,000,000 for fiscal year 1976, $18,000,000 for fiscal year 1977, and $21,000,000 for fiscal year 1978.

(b) (1) Of the sums appropriated under subsection (a) of this section for fiscal years 1976 and 1977, not less than $5,000,000 shall be made available for grants in each such fiscal year under section 6031(a) (1) of this title. The remainder of the sums appropriated for such fiscal years shall be made available as follows:

(A) First, $750,000 shall be made available in each such fiscal year for studies described in section 6031(a) (2) of this title. The portion of such $750,000 not required for such studies shall be made available for grants under section 6031(a) (1) of this title.

(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 6031(b) of this title.

(2) Of the sums appropriated under subsection (a) of this section for fiscal year 1978, not less than $5,500,000 shall be made available for grants in such fiscal year under section 6031(a) (1) of this title. The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the

remainder shall be made available for grants under section 6031(b) of this title. (Pub. L. 88–164, title I, § 123, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 487.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6031 of this title.

PART II.—CONSTRUCTION

§ 6041. Projects authorized.

The Secretary may make grants—

(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 6031(a) of this title; and

(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

(Pub. L. 88–164, title I, § 125, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6042, 6043 of this title.

§ 6042. Grants for projects; application; approval by Secretary; contents.

No grant may be made under section 6041 of this title unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that—

(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 6008 of this title;

(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 267c); and

(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156) (known as the Architectural Barriers Act of 1968).

(Pub. L. 88–164, title I, § 126, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

PRIOR PROVISIONS

Provisions similar to those comprising subds. (1) to (4) of this section were contained in Pub. L. 88–164, title I, § 135(a)(2)–(5), as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1321 (formerly classified to section 2675(a)(2)–(5) of this title) prior to repeal of section 135 of Pub. L. 88–164 by Pub. L. 94–103, § 112.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6043. Authorization of appropriations.

For the purpose of making payments under grants under section 6041 of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978. (Pub. L. 88–164, title I, § 127, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SUBCHAPTER III.—STATE ALLOTMENTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6002, 6006, 6008, 6011, 6012, 6081 of this title.

§ 6061. Authorization of appropriations.

For allotments under section 6062 of this title, there are authorized to be appropriated $40,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $60,000,000 for fiscal year 1978. (Pub. L. 88–164, title I, § 131, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, and amended Pub. L. 94–103, title I, §§ 101(a), 110(a), Oct. 4, 1975, 89 Stat. 486, 489.)

CODIFICATION

Section was formerly classified to section 2671 of this title.

AMENDMENTS

1975—Pub. L. 94–103, § 110(a), substituted appropriations authorization under allotment program of $40,000,000; $50,000,000; and $60,000,000 for fiscal years ending 1976, 1977, and 1978, for prior appropriations authorization for grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities of $60,000,000; $105,000,000; $130,000,000; $32,500,000; and $32,500,000 for fiscal years ending June 30, 1971 through 1975, respectively.

Pub. L. 94–103, § 101(a), authorized appropriation of $32,500,000 for fiscal year ending June 30, 1975.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6062 of this title.

§ 6062. Allotments to States.

(a) Determination of amount; availability of unexpended funds.

(1) (A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 6061 of this title among the States on the basis of—

(i) the population,

(ii) the extent of need for services and facilities for persons with developmental disabilities, and

(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 6063 of this title for the provision under such plans of services and facilities for persons with developmental disabilities.

(B) (i) Except as provided by clause (ii)—

(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than $50,000; and

(II) the allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment (determined without regard to subsection (d) of this section) received by the State for the fiscal year ending June 30, 1974.

(ii) If the amount appropriated under section 6061 of this title for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

(2) In determining, for purposes of paragraph (1) (A) (ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 6063(b) (5) of this title, in the State plan of such State approved under section 6063 of this title.

(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 6063 (b) (15) of this title) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 6063(b) (13) of this title, the amount specified pursuant to section 6063(b) (15) of this title for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 6063(b) (20) of this title, for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose.

(b) Apportionment of allotment among State agencies.

Whenever the State plan approved in accordance with section 6063 of this title provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

(c) Combined allotments to States involved in joint effort.

Whenever the State plan approved in accordance with section 6063 of this title provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) Reallotment of funds not required by a State.

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, (but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register) to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section for such fiscal year. (Pub. L. 88–164, title I, § 132, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, and

amended Pub. L. 94–103, title I, § 110(b)–(e)(1), title III, § 302(b)(1), Oct. 4, 1975, 89 Stat. 489, 490, 506.)

CODIFICATION

Section was formerly classified to section 2672 of this title.

AMENDMENTS

1975—Pub. L. 94–103, § 302(b)(1), substituted references to section "133" for "134" wherever appearing, classified in the text as section 6063 of this title.

Subsec. (a)(1). Pub. L. 94–103, § 110(b), substituted in provisions designated as subpar. (A) "In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 6061 of this title among the States on the basis of" for prior provision reading "From the sums appropriated to carry out the purposes of section 2670 of this title for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e) of this section, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of", redesignated as cls. (i) to (iii) of subpar. (A) provisions formerly designated as cls. (A) to (C) of par. (1), inserted in par. (1) the sentence "Sums allotted to the States under this section shall be used in accordance with approved plans under section 6063 of this title for the provision under such plans of services and facilities for persons with developmental disabilities.", inserted subpar. (B)(i)(I) provisions, substituted subpar. (B)(i)(II) provisions for prior par. (1) provision "except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000", and substituted subpar. (B)(ii) provisions for prior par. (1) provisions "if such fiscal year is later than the fiscal year ending June 30, 1971, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1971, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1971, bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1971."

Subsec. (a)(2). Pub. L. 94–103, § 110(b), substituted "paragraph (1)(A)(ii)" and "section 6063 of this title" for "paragraph (1)" and "this subchapter".

Subsec. (a)(3). Pub. L. 94–103, § 110(b), reenacted par. (3) provisions, making nonsubstantial changes, including substitution of "in a fiscal year", "in the next fiscal year", "in such year only", "in such next fiscal year" for "for a fiscal year," "for the next fiscal year", "for such year only", "for such next fiscal year" and "except that" for "Provided, That".

Subsec. (a)(4). Pub. L. 94–103, § 110(b), added par. (4).

Subsec. (b). Pub. L. 94–103, § 110(e)(1), substituted "the State plan" for "this subchapter" at end of first sentence and in the second sentence.

Subsec. (d). Pub. L. 94–103, § 110(c), inserted "(but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register)" after "as he may fix".

Subsec. (e). Pub. L. 94–103, § 110(d), repealed subsec. (e) which provided for grants to public or nonprofit private agencies for projects of special national significance, now covered in section 6081(e) of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6012, 6061, 6063 to 6066 of this title.

§ 6063. State plans.

(a) Submission and approval.

Any State desiring to take advantage of this subchapter must have a State plan submitted to and approved by the Secretary under this section.

(b) Conditions for approval.

In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

(1) designate (A) a State Planning Council as prescribed by section 6067 of this title, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 6062 of this title will be used to complement and augment rather than duplicate or replace services and faciilties for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(3) set forth priorities, policies, and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under section 6062 of this title will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds will be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(5) describe the quality, extent, and scope of treatment, services, and habilitation being pro-

vided or to be provided in implementing the State plan to persons with developmental disabilities;

(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;

(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the Council;

(9) provide that the State Planning Council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

(13) provide for the development of a program of construction of facilities for the provision of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), assign priority to the construction of projects, insofar as financial resources available therefor and for the maintenance and operation make possible, in the order of such relative need, and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (sections 4151 to 4156 of this title) (known as the Architectural Barriers Act of 1968);

(15) specify the per centum of the State's allotment (under section 6062 of this title) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subchapter;

(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 6062 of this title;

(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 6062 of this title will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps;

(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

(23) support the establishment of community programs as alternatives to institutionalization and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation

under programs assisted under this chapter will be protected;

(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this subchapter, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93–113) and other appropriate voluntary organizations except that volunteer services shall supplement, but shall not be in lieu of, services of paid employees;

(27) provide for the implementation of an evaluation system in accordance with the system developed under section 6009 of this title;

(28) provide, to the maximum extent feasible, an opportunity for prior review and comment by the State Planning Council of all State plans of the State which relate to programs affecting persons with developmental disabilities;

(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20)(A), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees; and

(30) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this subchapter.

(c) Approval of conforming plan; notice and hearing prior to final disapproval.

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) Administrative expenditures, limitation of amount; payments: advances or reimbursement, installments.

(1) At the request of any State, a portion of any allotment or allotments of such State under this subchapter for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1975. (Pub. L. 88–164, title I, § 133, formerly § 134, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1319, renumbered and amended Pub. L. 94–103, title I, §§ 110(e)(2), 111, title III, § 302(a), (b)(2), Oct. 4, 1975, 89 Stat. 490, 506.)

REFERENCES IN TEXT

Domestic Volunteer Service Act of 1973 (Public law 93–113), referred to in subsec. (b)(26), is classified to chapter 66 (§ 4951 et seq.) of this title.

CODIFICATION

Section was formerly classified to section 2674 of this title.

AMENDMENTS

1975—Subsec. (b)(1)(A). Pub. L. 94–103, §§ 111(a)(1), 302(b)(2), substituted "State Planning Council as prescribed by section 6067 of this title" for "State planning and advisory council".

Subsec. (b)(3). Pub. L. 94–103, § 111(a)(2), substituted "priorities, policies, and procedures" for "policies and procedures".

Subsec. (b)(4)(A). Pub. L. 94–103, § 110(e)(2), substituted "under section 6062 of this title" for "under this subchapter".

Subsec. (b)(5). Pub. L. 94–103, § 111(a)(3), substituted "describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities" for "(A) provide for the furnishing of services and facilities for persons with developmental disabilities associated with mental retardation, (B) specify the other categories of developmental disabilities (approved by the Secretary) which will be included in the State plan, and (C) describe the quality, extent, and scope of services as will be provided to eligible persons".

Subsec. (b)(7). Pub. L. 94–103, § 111(a)(4), substituted "include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis" for "provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan".

Subsec. (b)(8). Pub. L. 94–103, § 111(a)(5), substituted "State Planning Council be adequately staffed and identify the staff assigned to the Council" for "State planning and advisory council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: Provided, That at least one-third of the membership of such council shall consist of representatives of consumers of such services".

Subsec. (b)(9). Pub. L. 94–103, § 111(a)(6), substituted "State Planning Council" for "State planning and advisory council".

Subsec. (b)(14). Pub. L. 94–103, § 111(a)(8), required that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Architectural Barriers Act of 1968.

Subsec. (b)(15). Pub. L. 94–103, § 111(a)(7), substituted "10 per centum" for "50 per centum".

Subsec. (b)(18). Pub. L. 94–103, § 111(a)(9), added par. (18) and redesignated former par. (18) as (30).

Subsec. (b)(19)–(29). Pub. L. 94–103, § 111(a)(9), added pars. (19) to (29).

Subsec. (b)(30). Pub. L. 94–103, § 111(a)(9), redesignated former par. (18) as (30).

Subsec. (d). Pub. L. 94–103, § 111(b), added subsec. (d).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6062, 6064 to 6066, 6068 of this title.

§ 6064. Payments to the States for planning, construction, administration, and services.

(a) From each State's allotments for a fiscal year under section 6062 of this title, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this subchapter. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b)(1) Upon certification to the Secretary by the State agency, designated pursuant to section 6063(b)(1) of this title, based upon inspection by it, that work has been performed upon a construction project, or purchases have been made for such project, in accordance with the approved plans and specifications and that payment of an installment is due to the applicant, such installment shall be paid to the State with respect to such project, from the applicable allotment of such State, except that (A) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (B) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 136, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (C) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(2) In case the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such revision is approved. (Pub. L. 88–164, title I, § 134, formerly § 137, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, and amended Pub. L. 93–45, title III, § 301(c), June 18, 1973, 87 Stat. 95; renumbered and amended Pub. L. 94–103, title I, §§ 101(b), 113, title III, § 302(a), Oct. 4, 1975, 89 Stat. 486, 492, 506.)

REFERENCES IN TEXT

Section 136, referred to in subsec. (b), is a reference to section 136 of Pub. L. 88–164, title I, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1322, as amended, which provided for withholding of payments for construction and was formerly classified to section 2676 of this title prior to repeal by Pub. L. 94–103, title I, § 112, Oct. 4, 1975, 89 Stat. 492.

CODIFICATION

Section was formerly classified to section 2677 of this section.

AMENDMENTS

1975—Pub. L. 94–103, § 113(1), inserted in the heading "construction," after "planning".

Subsec. (a). Pub. L. 94–103, § 113(2), deleted par. (1) designation and par. (2) deeming expenditures by a political subdivision of a State or by nonprofit private agencies, organizations, and groups as State expenditures for purpose of determining the Federal share of a State, now covered in section 6002(c) of this title.

Subsec. (b). Pub. L. 94–103, § 113(3), substituted provisions respecting installment payments to a State from applicable allotment to the State upon approval of a construction project, including direct payments to applicants, withholding of payments pending corrective action, limitation of amount to Federal share of construction costs of the project, and additional payment in case of upward revision of estimated project cost from applicable State allotment for prior provisions prescribing the "Federal share", including such share in an urban or rural poverty area, now covered in section 6002(a) of this title.

Subsec. (b)(1). Pub. L. 94–103, § 101(b), provided a "Federal share" of 70 per centum of nonconstruction expenditures during fiscal year ending June 30, 1975.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6065. Withholding of payments for planning, construction, administration, and services; State's plan: review and notice of results.

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agencies or agency, designated pursuant to section 6063(b)(1) of this title finds that—

(1) there is a failure to comply substantially with any of the provisions required by section 6063 of this title to be included in the State plan; or

(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this subchapter,

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 6062 of this title (or, in his discretion, that further payments will not be made to the State under section 6062 of this title for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under section 6062 of this title, or shall limit further payment under section 6062 of this title to such State to activities in which there is no such failure.

(b) The State Planning Council of a State shall review the State's plan (including the design for implementation of such plan) under section 6063 of this title and the actions of the State under such plan for the purpose of determining if the State is complying with the requirements of the plan (and its design for implementation). For the purpose of

assisting the Secretary in the implementation of this section, a State Planning Council may notify the Secretary of the results of any review carried out under this subsection. (Pub. L. 88–164, title I, § 135, formerly § 138, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, renumbered and amended Pub. L. 94–103, title I, §§ 110(e)(3), 114, title III, § 302(a), (b)(3), Oct. 4, 1975, 89 Stat. 490, 493, 506.)

CODIFICATION

Section was formerly classified to section 2677a of this title.

Section 302(b)(3)(B) of Pub. L. 94–103 authorized substitution in subsec. (b) of reference to "section 6065" for "section 6066" but the only internal reference is to "section 6063 of this title".

Pub. L. 94–103, § 302(b)(3)(A), substituted reference to "section 133" for "section 134", classified in subsec. (a) introductory text, subsec. (a)(1), and subsec. (b) as section 6063 of this title.

AMENDMENTS

1975—Pub. L. 94–103, § 114(1), inserted in the section heading "construction," after "planning,".

Subsec. (a). Pub. L. 94–103, §§ 110(e)(3), 114(2), (3), substituted "under section 6062 of this title" for "under this subchapter" wherever appearing and "State Planning Council" and "State Council" for "State planning and advisory council" and "State council"; and designated existing provisions as subsec. (a) and redesignated as pars. (1) and (2) prior par. (a) and (b) designations.

Subsec. (b). Pub. L. 94–103, § 114(3), added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6068 of this title.

§ 6066. Nonduplication of payments.

In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 6063 of this title, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 6062 of this title, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. (Pub. L. 88–164, title I, § 136, formerly § 140, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1324, renumbered and amended Pub. L. 94–103, title I, § 115, title III, § 302(a), (b)(4), Oct. 4, 1975, 89 Stat. 493, 506.)

CODIFICATION

Section was formerly classified to section 2677c of this title.

AMENDMENTS

1975—Pub. L. 94–103, § 302(b)(4), substituted reference to section "133" for "134", classified in the text as section 6063 of this title.

Pub. L. 94–103, § 115, deleted existing subsec. (a) provisions respecting requirements for determining amount of payments by the Secretary for construction projects, now to be funded by States from their allotments under section 6062 of this title, deleted subsec. (b) designation for remaining provisions, and substituted provisions respecting expenditures incurred by a State under a State plan approved under section 6063 of this title for prior provisions for expenditures for planning, administration, and services incurred by the State under a State plan approved under the prior subchapter and provisions excepting from Federal financing funds under section 6062 of this title for such prior exception under the prior subchapter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

§ 6067. State Planning Councils.

(a) Establishment; membership.

Each State which receives assistance under this subchapter shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives funds or provides services under this subchapter.

(b) Duties.

The State Planning Council shall—

(1) supervise the development of and approve the State plan required by this subchapter;

(2) monitor and evaluate the implementation of such State plan;

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities, and

(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

(c) Personnel.

Each State receiving assistance under this subchapter shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b) of this section. (Pub. L. 88–164, title I, § 137, formerly § 141, as added and renumbered Pub. L. 94–103, title I, § 116, title III, § 302(a), Oct. 4, 1975, 89 Stat. 493, 506.)

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6063 of this title.

§ 6068. Appeals; petition; record; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action.

If any State is dissatisfied with the Secretary's action under section 6063(c) or section 6065 of this title, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition

shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action. (Pub. L. 88–164, title I, § 138, formerly § 142, as added, renumbered, and amended Pub. L. 94–103, title I, § 117, title III, § 302(a), (b)(5), Oct. 4, 1975, 89 Stat. 494, 506.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title IV, § 404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(c), Oct. 30, 1970, 84 Stat. 1324 (formerly classified to section 2694 of this title) prior to repeal of section 404 of Pub. L. 88–164, as amended by Pub. L. 94–103, § 302(c).

AMENDMENTS

1975—Pub. L. 94–103, § 302(b)(5) (A), (B), substituted references to "section 133(c)" for "section 134(c)" and "section 135" for "section 136", classified in the text to section 6063(c) and section 6065 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–103 effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

SUBCHAPTER IV.—SPECIAL PROJECT GRANTS

§ 6081. Grant authority.

(a) Specific projects.

The Secretary, after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, may make project grants to public or nonprofit private entities for—

(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(8) gathering and disseminating information relating to developmental disabilities; and

(9) improving the quality of services provided in and the administration of programs for such persons.

(b) Applications; approval by Secretary; contents; review and commentary of State Planning Councils.

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless the State in which the applicant's project will be conducted has a State plan approved under subchapter III of this chapter. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments thereon.

(c) Payments; advances or reimbursement; intervals; conditions; amount of grants: exclusions.

Payments under grants under subsection (a) of this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) of this section shall be determined by the Secretary. In determining the amount of any grant under subsection (a) of this section for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or

is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) Authorization of appropriations.

For the purpose of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $18,000,000 for fiscal year 1976, $22,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

(e) Funds for projects of national significance.

Of the funds appropriated under subsection (d) of this section for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

(f) Use of funds; restriction.

No funds appropriated under the Public Health Service Act, under this chapter (other than under subsection (d) of this section), or under section 774 of Title 29 may be used to make grants under subsection (a) of this section. (Pub. L. 88–164, title I, § 145, as added Pub. L. 94–103, title I, § 105, Oct. 4, 1975, 89 Stat. 495.)

REFERENCES IN TEXT

Public Health Service Act, referred to in subsec. (f), is classified to chapter 6A (§ 201 et seq.) of this title.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a)(5)–(7) of this section were contained in Pub. L. 88–164, title I, § 130(d)–(f), as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1316 (formerly classified to section 2670(d)–(f) of this title) prior to repeal of section 130 of Pub. L. 88–164 by Pub. L. 94–103, § 302(c).

Provisions similar to those comprising last sentence of subsec. (c) of this section were contained in Pub. L. 88–164, title IV, § 409, as added Pub. L. 90–574, title III, § 304, Oct. 15, 1968, 82 Stat. 1011 (formerly classified to section 2697a of this title) prior to repeal of section 409 of Pub. L. 88–164 by Pub. L. 94–103, § 302(c).

Provisions similar to those comprising subsec. (e) of this section were contained in Pub. L. 88–164, title I, § 132(e), as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317 (formerly classified to section 2672(e) of this title) prior to general revision of title I of Pub. L. 88–164 by Pub. L. 94–103.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103, set out as a note under section 6001 of this title.

Chapter 76.—AGE DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS [NEW]

Sec.
6101. Statement of purpose.
6102. Prohibition of discrimination.
6103. Regulations.
(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date.
(b) Nonviolative actions; program or activity exemption.
(c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected.
6104. Enforcement; report to Congressional Committees; exclusiveness of remedy.
6105. Judicial review.
(a) Revisions of other laws.
(b) Provisions of chapter 7 of Title 5; reviewable agency discretion.
6106. Study of discrimination based on age.
(a) Study by Commission on Civil Rights.
(b) Public hearings.
(c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel.
(d) Report to President and Congress; copies to affected Federal departments and agencies.
(e) Comments and recommendations of Federal departments and agencies; submission to President and Congressional Committees.
(f) Cooperation of Federal departments and agencies with Commission.
(g) Authorization of appropriations.
6107. Definitions.

CROSS REFERENCES

Age discrimination in employment, see section 621 et seq. of Title 29, Labor.

Civil rights, Federally assisted programs, see section 2000d et seq. of this title.

§ 6101. Statement of purpose.

It is the purpose of this chapter to prohibit unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.). (Pub. L. 94–135, title III, § 302, Nov. 28, 1975, 89 Stat. 728.)

SHORT TITLE

Section 301 of Pub. L. 94–135 provided that: "The provisions of this title [this chapter] may be cited as the 'Age Discrimination Act of 1975'."

§ 6102. Prohibition of discrimination.

Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. (Pub. L. 94–135, title III, § 303, Nov. 28, 1975, 89 Stat. 728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6103. Regulations.

(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date.

(1) Not later than one year after the transmission of the report required by section 6106(b) of this title, or two and one-half years after November 28, 1975, whichever occurs first, the Secretary of Health, Education, and Welfare shall publish in the Federal Register proposed general regulations to carry out the provisions of section 6102 of this title.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

(i) the forty-five day period specified in section 6106(e) of this title; and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the

Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 6106(d) of this title, and with respect to the comments and recommendations submitted by Federal departments and agencies under section 6106(e) of this title.

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 6102 of this title, after taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each Federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 6102 of this title and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before January 1, 1979.

(b) Nonviolative actions; program or activity exemption.

(1) It shall not be a violation of any provision of this chapter, or of any regulation issued under this chapter, for any person to take any action otherwise prohibited by the provisions of section 6102 of this title if, in the program or activity involved—

(A) such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this chapter shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

(c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected.

(1) Except with respect to any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 [1] (29 U.S.C. 801, et seq.), as amended, nothing in this chapter shall be construed to authorize action under this chapter by any Federal department or agency with respect to any employment practice of any employer, employment agency, or labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this chapter shall be construed to amend or modify the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621–634), as amended, or to affect the rights or responsibilities of any person or party pursuant to such Act. (Pub. L. 94–135, title III, § 304, Nov. 28, 1975, 89 Stat. 729.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6102, 6104 of this title.

§ 6104. Enforcement; report to Congressional Committees; exclusiveness of remedy.

(a) The head of any Federal department or agency who prescribes regulations under section 6103 of this title may seek to achieve compliance with any such regulation—

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity for hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

(b) Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) of this section shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1) of this section. Any such termination or refusal shall be limited in its effect to the particular program or activity, or part of such program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance.

(c) No action may be taken under subsection (a) of this section until the head of the Federal department or agency involved has advised the appropriate person of the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

(d) In the case of any action taken under subsection (a) of this section, the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program or activity involved. No such action shall take effect until thirty days after the transmission of any such report.

(e) The provisions of this section shall be the exclusive remedy for the enforcement of the provisions of this chapter. (Pub. L. 94–135, title III, § 305, Nov. 28, 1975, 89 Stat. 730.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6105 of this title.

§ 6105. Judicial review.

(a) Provisions of other laws.

Any action by any Federal department or agency under section 6104 of this title shall be subject to

[1] So in original, should be "1973".

such judicial review as may otherwise be provided by law for similar action taken by any such department or agency on other grounds.

(b) Provisions of chapter 7 of Title 5; reviewable agency discretion.

In the case of any action by any Federal department or agency under section 6104 of this title which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of Title 5. For purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title. (Pub. L. 94–135, title III, § 306, Nov. 28, 1975, 89 Stat. 730.)

§ 6106. Study of discrimination based on age.

(a) Study by Commission on Civil Rights.

The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluded from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

(b) Public hearings.

As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

(c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel.

The Commission is authorized to obtain, through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 1975d(b) of this title.

(d) Report to President and Congress; copies to affected Federal departments and agencies.

Not later than eighteen months after November 28, 1975, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations.

(e) Comments and recommendations of Federal departments and agencies; submission to President and Congressional Committees.

Not later than forty-five working days after receiving a copy of the report required by subsection (d) of this section, each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives.

(f) Cooperation of Federal departments and agencies with Commission.

The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a) of this section, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(g) Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. (Pub. L. 94–135, title III, § 307, Nov. 28, 1975, 89 Stat. 731.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6107. Definitions.

For purposes of this chapter—

(1) the term "Commission" means the Commission on Civil Rights;

(2) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(3) the term "Federal department or agency" means any agency as defined in section 551 of Title 5 and includes the United States Postal Service and the Postal Rate Commission.

(Pub. L. 94–135, title III, § 308, Nov. 28, 1975, 89 Stat. 731.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 759.

§ 6201. Congressional statement of purpose.

The purposes of this chapter are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

(Pub. L. 94–163, § 2, Dec. 22, 1975, 89 Stat. 874.)

REFERENCES IN TEXT

This "chapter", referred to in the introductory phrase, was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under this section.

SHORT TITLE

Section 1 of Pub. L. 94–163 provided: "That this Act [enacting this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amending sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of the Appendix to Title 50, War and National Defense, enacting provisions set out as notes under this section, sections 753 and 796 of Title 15, and section 2071 of Title 50 App., and repealing provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking] may be cited as the 'Energy Policy and Conservation Act'."

§ 6202. Definitions.

As used in this chapter:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 1331 of Title 43.

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purpose", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

(Pub. L. 94-163, § 3, Dec. 22, 1975, 89 Stat. 874.)

REFERENCES IN TEXT

This "chapter", referred to in the introductory phrase, was in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94-163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6341 of this title; title 15 sections 760d, 760e.

SUBCHAPTER I.—DOMESTIC SUPPLY AVAILABILITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6391, 6393, 6394, 6396, 6401 of this title.

PART A.—DOMESTIC SUPPLY

§ 6211. Incentives to develop underground coal mines.

(a) Loan guarantees.

The Administrator may, in accordance with subsection (b) of this section and rules prescribed under subsection (d) of this section, guarantee loans made to eligible persons described in subsection (c)(1) of this section for the purpose of developing new underground coal mines.

(b) Administrator's determinations prerequisite to loan guarantee; maximum guarantees; aggregate outstanding guaranteed loans; new underground coal mines.

(1) A person may receive for a loan guarantee under subsection (a) of this section only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be

issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) Eligible persons; low sulfur coal.

For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) Rules and regulations.

The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c) of this section, and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Recordkeeping.

Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section. (Pub. L. 94–163, title I, § 102, Dec. 22, 1975, 89 Stat. 876.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act, referred to in subsec. (b)(1)(B) is classified to section 801 et seq. of Title 30, Mineral Lands and Mining.

The Clean Air Act, referred to in subsec. (b)(1)(D), is classified to section 1857 et seq. of this title.

Section 110 of the Clean Air Act, referred to in subsec. (b)(1)(D), is classified to section 1857c–5 of this title.

§ 6212. Domestic use of energy supplies and related materials and equipment.

(a) Export restrictions.

The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this chapter, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or[1] further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b) Exemptions.

(1) The President shall exercise the authority provided for in subsection (a) of this section to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this chapter.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this chapter.

(c) Implementing restrictions.

In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) of this section on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Restrictions and national interest.

Any finding by the President pursuant to subsection (a) or (b) of this section and any action taken by the Secretary of Commerce pursuant thereto

[1] So in original. Probably should read "for".

shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e) Waiver of notice and comment period.

(1) The provisions of subchapter II of chapter 5 of Title 5 shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c) of this section, the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this chapter, to any violation of such restrictions.

(f) Quarterly reports to Congress.

The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b) of this section. (Pub. L. 94–163, title I, § 103, Dec. 22, 1975, 89 Stat. 877.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (a), (b), and (e), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

The Export Administration Act of 1969, referred to in subsecs. (c) and (e)(3), is classified to section 2401 et seq. of the Appendix to Title 50, War and National Defense.

Section 3(2)(A) of the Export Administration Act of 1969, referred to in subsec. (c), is classified to section 2402(2)(A) of the Appendix to Title 50.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6271, 6393 of this title.

§ 6213. Certain lease bidding arrangements prohibited.

(a) Promulgation of rule by Secretary of the Interior.

The Secretary of the Interior shall, not later than 30 days after December 22, 1975, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) Definitions.

As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) Exemptions.

The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) Unitization of producing fields.

This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) Report to Congress covering extension of restrictions on joint bidding.

The Secretary shall study and report to the Congress, not later than 6 months after December 22, 1975, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

(Pub. L. 94–163, title I, § 105, Dec. 22, 1975, 89 Stat. 879.)

§ 6214. Production of oil or gas at the maximum efficient rate and temporary emergency production rate.

(a) Determination by Secretary of the Interior.

(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f) of this section, the President may, by rule or order, require

crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b) Determination of rate of production by States; required production.

(1) Each State or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

(c) Fields composed of Federal and non-Federal land.

With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a)(1) of this section, determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) Action to recover just compensation.

If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) Definitions.

As used in this section:

(1) The term "maximum efficient rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas, or both, from such field.

(f) Naval Petroleum Reserves.

Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of Title 10. (Pub. L. 94–163, title I, § 106, Dec. 22, 1975, 89 Stat. 880.)

PART B.—STRATEGIC PETROLEUM RESERVE

§ 6231. Congressional finding and declaration of policy.

(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. (Pub. L. 94–163, title I, § 151, Dec. 22, 1975, 89 Stat. 881.)

§ 6232. Definitions.

As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6235 of this title.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 6236 of this tite.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an ease-

ment, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6237 of this title.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve. (Pub. L. 94–163, title I, § 152, Dec. 22, 1975, 89 Stat. 882.)

§ 6233. Strategic Petroleum Reserve Office.

There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve. (Pub. L. 94–163, title I, § 153, Dec. 22, 1975, 89 Stat. 882.)

§ 6234. Strategic Petroleum Reserve.

(a) Establishment.

A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on December 22, 1975, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 6235 of this title, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 6239 (a) of this title) shall contain not less than 150 million barrels of petroleum products.

(b) Strategic Petroleum Reserve Plan.

The Administrator, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 6421 of this title, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c) Levels of crude oil to be stored.

(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6) of this section, the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

(C) within 3 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) within 5 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding December 22, 1975, in which average monthly import levels were the highest.

(d) Plan objectives.

The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) Plan provisions.

The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c) of this section, and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

(Pub. L. 94–163, title I, § 154, Dec. 22, 1975, 89 Stat. 882.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6235, 6238, 6239, 6246 of this title.

§ 6235. Early Storage Reserve.

(a)(1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 6236(b) of this title.

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 6239(a) of this title, the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after December 22, 1975, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from December 22, 1975. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 6239(a) of this title. The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve. (Pub. L. 94–163, title I, § 155, Dec. 22, 1975, 89 Stat. 884.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6232, 6234, 6246 of this title.

§ 6236. Industrial Petroleum Reserve.

(a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title, the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he

may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States. (Pub. L. 94–163, title I, § 156, Dec. 22, 1975, 89 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6232, 6235, 6239, 6241 of this title; title 15 section 760e.

§ 6237. Regional Petroleum Reserve.

(a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a) of this section, a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a) of this section, at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a) of this section, in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve. (Pub. L. 94–163, title I, § 157, Dec. 22, 1975, 89 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6232 of this title.

§ 6238. Utility Reserves; Coal Reserves; Remote Crude Oil and Natural Gas Reserves.

Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 6234(b) of this title, the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

(Pub. L. 94–163, title I, § 158, Dec. 22, 1975, 89 Stat. 886.)

§ 6239. Congressional review of Strategic Petroleum Reserve Plan; implementation.

(a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 6234(b) of this title; and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 6421 of this title.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a) of this section, the 5 calendar days described in section 6421(f)(4)(A) of this title shall be lengthened to 15 calendar days, and the 15 calendar days described in section 6421 (c) and (d) of this title shall be lengthened to 45 calendar days.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmitted under subsection (c) of this section and any amendment transmitted

under subsection (d) of this section, other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) the Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) of this section (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 6421 of this title.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a) of this section;

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c) of this section or any amendment described in subsection (d) of this section, which such proposal or amendment has taken effect pursuant to subsection (e) of this section; and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan,

the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 6240 of this title, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 6236 of this title;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 6236 of this title, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons. (Pub. L. 94–163, title I, § 159, Dec. 22, 1975, 89 Stat. 886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6234 to 6236, 6241, 6246 of this title.

§ 6240. Petroleum products for storage; objectives in determining manner of acquisition.

(a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

(Pub. L. 94–163, title I, § 160, Dec. 22, 1975, 89 Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6239 of this title.

§ 6241. Drawdown and distribution of Reserve.

(a) The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f) of this section, no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Pan which has

taken effect pursuant to section 6239(a) of this title.

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 6239(a) of this title.

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of Title 15.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 6236 of this title to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may prescribe. (Pub. L. 94–163, title I, § 161, Dec. 22, 1975, 89 Stat. 888.)

§ 6242. Coordination with import quota system.

No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve. (Pub. L. 94–163, title I, § 162, Dec. 22, 1975, 89 Stat. 889.)

§ 6243. Disclosure and inspection of records and accounts.

(a) The Administrator may require any person to prepare and maintain such records or accounts as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) of this section and (2) any storage facilities subject to audit by the United States under the authority of this part. (Pub. L. 94–163, title I, § 163, Dec. 22, 1975, 89 Stat. 889.)

§ 6244. Report on development of Naval Petroleum Reserve Number 4.

The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after December 22, 1975, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report. (Pub. L. 94–163, title I, § 164, Dec. 22, 1975, 89 Stat. 889.)

§ 6245. Annual report.

The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

(Pub. L. 94–163, title I, § 165, Dec. 22, 1975, 89 Stat. 889.)

§ 6246. Authorization of appropriations.

There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 6239(a) for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 6234(a) of this title or 6235(a)(2) of this title, whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 6239(a) of this title, including

planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.
(Pub. L. 94–163, title I, § 166, Dec. 22, 1975, 89 Stat. 890.)

SUBCHAPTER II.—STANDBY ENERGY AUTHORITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6391, 6393, 6394, 6396, 6401 of this title.

PART A.—GENERAL EMERGENCY AUTHORITIES

§ 6261. Transmission of energy conservation and rationing contingency plans to Congress; conditions to exercising authorities; amendment of plans; temporary enactment.

(a)(1) Within 180 days after December 22, 1975, the President shall transmit to the Congress pursuant to subsection (b)(1) of this section one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 6262 of this title; or

(B) a rationing contingency plan prescribed under section 6263 of this title.

(b) Except as otherwise provided in subsection (d) or (e) of this section and subject to the requirements of subsection (c) of this section, no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 6422(a) of this title;

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 6422 of this title; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b) of this section, a rationing contingency plan approved under subsection (b)(2) of this section may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 6421(b) of this title a request to put such rationing contingency plan into effect, and

(2) neither house of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 6421 of this title.

(d)(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 6422 of this title and each House of Congress has approved such amendment in accordance with the procedures specified in section 6422 of this title.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 6421(b) of this title and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 6421 of this title.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 6393 of this title.

(e) Beginning at any time during the 90-day period which begins December 22, 1975, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 6421(b) of this title, together with a request to put such plan into effect; and

(2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 6421 of this title.

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) of this section shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

(Pub. L. 94–163, title II, § 201, Dec. 22, 1975, 89 Stat. 890.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6263, 6422 of this title.

§ 6262. Energy conservation contingency plans.

(a)(1) The President shall prescribe, in accordance with section 6393(a) of this title, one or more

energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 6263(a)(2)(B) of this title.

(2) An energy conservation contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) Any energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter. (Pub. L. 94–163, title II, § 202, Dec. 22, 1975, 89 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261, 6395 of this title.

§ 6263. Rationing contingency plan.

(a)(1) The President shall prescribe, by rule in accordance with section 6393(a) of this title, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Any finding required to be made by the President pursuant to section 6261(b)(3) of this title and any request to put a rationing contingency plan into effect pursuant to section 6261(e) of this title shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this chapter.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this chapter.

(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 6261(b)(2) of this title, the President shall, by rule, prescribe—

(A) criteria for delegation of his functions, in whole or part, under this chapter with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial

distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 6401 of this title, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973. (Pub. L. 94–163, title II, § 203, Dec. 22, 1975, 89 Stat. 892.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in text, is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, which is classified to section 751 et seq. of Title 15, Commerce and Trade. Sections 4, 4(a), 4(b)(1), and 5, thereof, are classified, respectively, to sections 753, 753(a), 753(b)(1), and 754 of Title 15.

This "chapter", referred to in text, was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Saving Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261, 6262 of this title.

PART B.—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

§ 6271. International oil allocations.

(a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2) of this section, such a rule shall remain in effect until amended or rescinded by the President.

(b)(1) No rule under subsection (a) of this section may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) of this section may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c)(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of Title 15.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 6212 of this title nor section 185(u) of Title 30 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States (Pub. L. 94–163, title II, § 251, Dec. 22, 1975, 89 Stat. 894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6272. International voluntary agreements.

(a) Effective 90 days after December 22, 1975, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) of this section shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the

Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of Title 5; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552 (b) (1), (b) (3), or so much of (b) (4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b) (1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c) (3) of this section. Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e) of this section.

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e) (1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of

enforcement any powers conferred upon the Federal Trade Commisison or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this chapter or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on December 22, 1975, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this chapter or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708(A)(o)[1] of the Defense Production Act of 1950, the effective date of the provisions of this chapter which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after December 22, 1975.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this sectiion.

(j) The authority granted by this section shall business of actions authorized by this section.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 6274 of this title:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

(Pub. L. 94–163, title II, § 252, Dec. 22, 1975, 89 Stat. 894.)

REFERENCES IN TEXT

The Antitrust Civil Process Act, referred to in subsec. (e)(4), is classified to section 1311 et seq. of Title 15, Commerce and Trade.

The date of enactment of this chapter, referred to in subsec. (g), means the date of enactment of Pub. L. 94–163, which was approved on December 22, 1975.

This "chapter", referred to in subsec. (h), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which, in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

The Defense Production Act of 1950, referred to in subsec. (h), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified to section 2061 et seq. of the Appendix to Title 50, War and National Defense. Sections 708 and 708A thereof are classified, respectively, to sections 2158 and 2158a of the Appendix to Title 50.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (h)(2), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, which is classified to section 751 et seq. of Title 15.

CROSS REFERENCES

Inapplicability of sections 2158 and 2158a of Title 50, Appendix, to certain voluntary agreements upon effective date of this section, see section 2158a(o) of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title; title 50 App. section 2158a.

[1] So in original. A reference to section 708A(o) was probably intended.

§ 6273. Advisory committees.

(a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of Title 5, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c) of this section.

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 776 of Title 15,

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b) of this section;

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of Title 5. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such supension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension. (Pub. L. 94–163, title II, § 253, Dec. 22, 1975, 89 Stat. 898.)

REFERENCES IN TEXT

The Federal Energy Administration Act of 1974, referred to in subsec. (a), is Pub. L. 93–275, May 7, 1974, 88 Stat. 97, which is classified to section 761 et seq. of Title 15, Commerce and Trade. Section 17 thereof is classified to section 776 of Title 15.

The Federal Advisory Committee Act, referred to in subsec. (c)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6274. Exchange of information with International Energy Agency.

(a)(1) Except as provided in subsections (b) and (c) of this section, the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b)(9) or (b)(4) of Title 5 applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after December 22, 1975, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;

(4) section 9 of Title 13;

(5) section 176a of Title 15; and

(6) section 1905 of Title 18.

(Pub. L. 94–163, title II, § 254, Dec. 22, 1975, 89 Stat. 899.)

REFERENCES IN TEXT

Section 11 of the Energy Supply and Environmental Coordination Act, referred to in subsecs. (d) and (e)(1), is classified to section 796 of Title 15, Commerce and Trade.

Sections 13 and 14(b) of the Federal Energy Administration Act of 1974, referred to in subsecs. (d) and (e)(2), are classified to sections 772 and 773(b) of Title 15.

The provisions of such Acts relating to their expiration, referred to in subsec. (d), are contained in section 11(g) of the Energy Supply and Environmental Coordination Act which is classified to section 796(g) of Title 15, and section 30 of the Federal Energy Administration Act of 1974 which is set out as a note under section 761 of Title 15.

Section 7 of the Export Administration Act of 1969, referred to in subsec. (e), is classified to section 2406 of the Appendix to Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6272, 6395 of this title.

§ 6275. Relationship between standby emergency authorities and international energy program.

The purpose of the Congress in enacting this subchapter is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this subchapter may, to the extent authorized by this subchapter, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this subchapter shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program. (Pub. L. 94–163, title II, § 255, Dec. 22, 1975, 89 Stat. 900.)

SUBCHAPTER III.—IMPROVING ENERGY EFFICIENCY

PART A.—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

CODIFICATION

This part was, in the original, designated Part B and has been redesignated as Part A for purposes of codification.

§ 6291. Definitions.

(a) [1] For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 2001(1) of Title 15) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 6292 of this title.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this chapter.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 6293 of this title.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 6293 of this title.

(6) The term "energy efficiency standard" means a performance standard—

[1] Section enacted without a subsec. (b).

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title, and

(B) which includes any other requirements which the Administrator may prescribe under section 6295(c) of this title.

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 6293 of this title.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufacturers a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

(Pub. L. 94–163, title III, § 321, Dec. 22, 1975, 89 Stat. 917.)

REFERENCES IN TEXT

This "chapter", referred to in Subsec. (a)(3), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

§ 6292. Covered products.

(a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.

(2) Freezers.

(3) Dishwashers.

(4) Clothes dryers.

(5) Water heaters.

(6) Room air conditioners.

(7) Home heating equipment, not including furnaces.

(8) Television sets.

(9) Kitchen ranges and ovens.

(10) Clothes washers.

(11) Humidifiers and dehumidifiers.

(12) Central aid [1] conditioners.

(13) Furnaces.

(14) Any other type of consumer product which the Administrator classifies as a covered product under subsection (b) of this section.

(b)(1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use with respect to a type of product [2] means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

(Pub. L. 94–163, title III, § 322, Dec. 22, 1975, 89 Stat. 918.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (b)(1)(A), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6293 to 6295 of this title.

[1] So in original. Probably should be "air".

[2] So in original. Probably should be followed by closing quotations.

§ 6293. Test procedures.

(a)(1) The Administrator shall, during the 30-day period which begins on December 22, 1975, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title.

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 6292(a) of this title, such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 6292(a) of this title, such proposed test procedures shall be published not later than June 30, 1977.

(4)(A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 6292(a) of this title, such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 6292(a) of this title, such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 6292(b) of this title, the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (C) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 6294 of this title will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b) of this section, and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) of this section and publishes such determination in the Federal Register, together with the reasons therefor.

(b)(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing. (Pub. L. 94–163, title III, § 323, Dec. 22, 1975, 89 Stat. 919.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6294 to 6297, 6303, 6306 of this title.

§ 6294. Labeling.

(a) Requirement; exceptions.

(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 6292(a) of this title, except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 6293(a)(6) of this title that test procedures cannot be developed which meet the requirements of section 6293(b) of this title; or

(B) the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 6292(a) of this title, except to the extent that with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 6293(a)(6) of this title that test procedures cannot be developed which meet the requirements of section 6293(b) of this title; or

(B) the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 6292(a) of this title (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 6293(a)(5)(B) of this title,

(B) the Administrator has prescribed test procedures under section 6293(a)(5) of this title for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b) Procedure for prescribing rules.

(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 6292(a) of this title (or class thereof) is published under section 6293(a) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 6293 of this title with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 6292(a) of this title, the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 6293 of this title with respect to covered products of a type specified in paragraph (14) of section 6292(a) of this title, the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot published proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 6292(a) of this title, that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 6292(a) of this title.

(c) Form and content of rules and labels.

(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 6293 of this title), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 6293 of this title); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 6293 of this title used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) Products completed prior to effective date of rules or amendments.

A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) Study to determine coverage for additional consumer products.

The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 6308 of this title.

(f) Consultation between Administrator and Commission.

The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a)(1) or (2) of this section, it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Labeling authority under Federal Trade Commission Act.

Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product. (Pub. L. 94–163, title III, § 324, Dec. 22, 1975, 89 Stat. 920.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (g), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified to section 41 et seq. of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6293, 6295 to 6297, 6302, 6304, 6306 of this title.

§ 6295. Energy efficiency standards.

(a) Duty of Administrator to prescribe.

(1)(A) Not later than 180 days after December 22, 1975, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 6292(a) of this title.

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 6292(a) of this title which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage

which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after December 22, 1975, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragraphs (11), (12), and (13) of section 6292(a) of this title. Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 6292(a) of this title to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the percentage improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 6292(a) of this title is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) of this section to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 6294 of this title applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified,

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the[1] benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General (on request of the Administrator, the Commission, or any person, or on his own motion) makes such determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without regard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 6292(b) of this title). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C) of this subsection.

(b) Procedure.

Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) Test procedures; requirements necessary to meet minimum energy efficiency levels.

An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 6293 of this title, and may

[1] So in original. Probably should read "and if the".

include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) Labeling rules.

A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 6294 of this title with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section. (Pub. L. 94–163, title III, § 325, Dec. 22, 1975, 89 Stat. 923.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6296, 6297, 6304 to 6306 of this title.

§ 6296. Requirements of manufacturers.

(a) Display of labels; catalog information.

Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 6294 of this title applicable to such product.

(b) Notification of products covered; label data; test models; energy consumption data; observation of test procedures.

(1) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 6294 of this title applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 6294 of this title, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 6293 of this title.

(5) A rule under section 6293, 6294, or 6295 of this title may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Tables of ranges.

Each manufacturer shall use labels reflecting the range data required to be disclosed under section 6294(c)(1)(B) of this title after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 6294 of this title provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually. (Pub. L. 94–163, title III, § 326, Dec. 22, 1975, 89 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302 to 6304 of this title.

§ 6297. State laws; warranties.

(a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 6293 of this title applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 6293 of this title, or

(B) if there is a rule under section 6294 of this title applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 6294 of this title; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 6295 of this title applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 6293 or 6294 of this title applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2) of this section, then any person subject to such State regulation may petition the Adminisrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the

petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a) of this section, any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) of this section if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a) of this section, any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use. (Pub. L. 94–163, title III, § 327, Dec. 22, 1975, 89 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6306 of this title.

§ 6298. Rules.

The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part. (Pub. L. 94–163, title III, § 328, Dec. 22, 1975, 89 Stat. 928.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6306 of this title.

§ 6299. Authority to obtain information.

(a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 796(e)(1) of Title 15 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title. (Pub. L. 94–163, title III, § 329, Dec. 22, 1975, 89 Stat. 928.)

§ 6300. Exports.

This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export. (Pub. L. 94–163, title III, § 330, Dec. 22, 1975, 89 Stat. 928.)

§ 6301. Imports.

Any covered product offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 6302 of this title, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after December 22, 1975. (Pub. L. 94–163, title III, § 331, Dec. 22, 1975, 89 Stat. 928.)

§ 6302. Prohibited acts.

(a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 6294 of this title applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 6294 of this title;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 6296 (a), (b)(2), (b)(3), or (b)(5) of this title; or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product

which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year. (Pub. L. 94–163, title III, § 332, Dec. 22, 1975, 89 Stat. 928.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6301, 6303 to 6305 of this title.

§ 6303. Enforcement.

(a) Except as provided in subsection (b) of this section, any person who knowingly violates any provision of section 6302 of this title shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 6302(a)(3) of this title which relate to requirements prescribed by the Administrator, violations of section 6302(a)(4) of this title which relate to requests of the Administrator under section 6296(b)(2) of this title, or violations of section 6302(a)(5) of this title shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 6302(a) of this title shall constitute a separate violation with respect to each covered product, and each day of violation of section 6302(a)(3) or (4) of this title shall constitute a separate violation.

(b) As used in subsection (a) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 45(a)(1) of Title 15) for any person to violate section 6293(d)(2)[1] of this title. (Pub. L. 94–163, title III, § 333, Dec. 22, 1975, 89 Stat. 929.)

§ 6304. Injunctive enforcement.

The United States district courts shall have jurisdiction to restrain (1) any violation of section 6302 of this title and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 6294 or 6295 of this title. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 6302(a)(3) of this title which relates to requirements prescribed by the Administrator, any violation of section 6302(a)(4) of this title which relates to requests of the Administrator under section 6296(b)(2) of this title, or any violation of section 6302(a)(5) of this title shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found. (Pub. L. 94–163, title III, § 334, Dec. 22, 1975, 89 Stat. 929.)

§ 6305. Citizen suits.

(a) Civil actions; jurisdiction.

Except as otherwise provided in subsection (b) of this section, any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 6295 and 6302(a)(5) of this title, and rules thereunder); or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 6295 or 6302(a)(5) of this title).

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) Notice.

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) Intervention.

In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) Costs.

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Other remedies unaffected.

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforce-

[1] So in original. Section 6293 of this title consists only of subsecs. (a) to (c).

ment of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) Good faith compliance with invalid rules.

For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule. (Pub. L. 94–163, title III, § 335, Dec. 22, 1975, 89 Stat. 930.)

§ 6306. Administrative procedure and judicial review.

(a)(1) Rules under sections 6293, 6294, 6295(a)(1), (2), or (3), 6297(b), or 6298 of this title shall be prescribed in accordance with section 553 of Title 5 except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 6295(a) of this title, the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 57a of Title 15 shall apply to rules under section 6295 of this title (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 57a(a)(1)(B) of Title 15.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 6293 or 6294 of this title when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of Title 28.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of Title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293, or 6294 of this title may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 57a(e) of Title 15 shall apply to rules under section 6295 of this title (other than subsections (a)(1), (2) and (3)) to the same extent that it applies to rules under section 57a(a)(1)(B) of Title 15. (Pub. L. 94–163, title III, § 336, Dec. 22, 1975, 89 Stat. 930.)

§ 6307. Consumer education.

The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name. (Pub. L. 94–163, title III, § 337, Dec. 22, 1975, 89 Stat. 931.)

§ 6308. Annual report.

The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part. (Pub. L. 94–163, title III, § 338, Dec. 22, 1975, 89 Stat. 932.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6294 of this title.

§ 6309. Authorization of appropriations.

(a) There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;

(2) $1,500,000 for fiscal year 1977; and

(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a) of this section, may be allocated by the Administrator to the National Bureau of Standards. (Pub. L. 94–163, title III, § 339, Dec. 22, 1975, 89 Stat. 932.)

Part B.—State Energy Conservation Plans

Codification

This part was, in the original, designated Part C and has been redesignated Part B for purposes of codification.

§ 6321. Congressional findings and declaration of purpose.

(a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs. (Pub. L. 94–163, title III, § 361, Dec. 22, 1975, 89 Stat. 932.)

§ 6322. State energy conservation plans.

(a) Feasibility reports.

The Administrator shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the[1] State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) Guidelines.

The Administrator shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Mandatory features of plans.

Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Optional features of plans.

Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

[1] So in original. Probably should read "of the".

(e) Standby plans.

The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section. (Pub. L. 94–163, title III, § 362, Dec. 22, 1975, 89 Stat. 933.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323 to 6325 of this title.

§ 6323. Federal assistance to States.

(a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 6322 of this title, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322 (b) or (e) of this title.

(b)(1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322 (b) or (e) of this title, the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Administrator deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) of this section shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part. (Pub. L. 94–163, title III, § 363, Dec. 22, 1975, 89 Stat. 934.)

REFERENCES IN TEXT

This "chapter", referred to in subsecs. (b)(2)(B) and (C), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6325 of this title.

§ 6324. Energy conservation goals.

Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 6322(b) of this title which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs. (Pub. L. 94–163, title III, § 364, Dec. 22, 1975, 89 Stat. 935.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6325 of this title.

§ 6325. General provisions.

(a) Rules.

The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) Departmental consultation.

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Administrator shall consult with appropriate departments and Federal agencies.

(c) Annual report.

The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation

and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) Authorization of appropriations.

There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,000 for fiscal year 1978. (Pub. L. 94–163, title III, § 365, Dec. 22, 1975, 89 Stat. 935.)

§ 6326. Definitions.

As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

(Pub. L. 94–163, title III, § 366, Dec. 22, 1975, 89 Stat. 935.)

Part C.—Industrial Energy Conservation

CODIFICATION

This part was, in the original, designated Part D and has been redesignated Part C for purposes of codification.

§ 6341. Definitions.

As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 6202(2)(B) of this title and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

(Pub. L. 94–163, title III, § 371, Dec. 22, 1975, 89 Stat. 936.)

§ 6342. Energy efficiency program.

The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

(Pub. L. 94–163, title III, § 372, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6344 to 6346 of this title.

§ 6343. Identification of major energy consumers.

Within 90 days after December 22, 1975, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

(Pub. L. 94–163, title III, § 373, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6344 to 6346 of this title.

§ 6344. Individual energy efficiency improvement targets.

(a) Establishment for ten most energy consumptive industries.

Within one year after December 22, 1975, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumtive[1] industries identified under section 6343 of this title. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) Determination of maximum feasible improvement.

In determining maximum feasible improvement under subsection (a) of this section and under subsection (c) of this section, the Administrator shall consider—

(1) the objectives of the program established under section 6342 of this title,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) Targets for other industries.

The Administrator may, in order to carry out section 6342(1) of this title, set an industrial energy

[1] So in original. Should be "energy-consumptive".

efficiency improvement target for any major energy-consuming industry to which subsection (a) of this section does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Modification of targets.

Any target established under subsection (a) or (c) of this section may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

(Pub. L. 94–163, title III, § 374, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6345, 6346 of this title.

§ 6345. Reports.

(a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 6343 of this title, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 6344(a) of this title, shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 6346(g) of this title).

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a) of this section, a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a) of this section.

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 6342 of this title. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

(Pub. L. 94–163, title III, § 375, Dec. 22, 1975, 89 Stat. 937.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6346 of this title.

§ 6346. General provisions.

(a) Jurisdiction to order compliance with reporting requirement.

The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 6345(a) of this title, requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) Authority to obtain information for energy efficiency program.

In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 6342 of this title.

(c) Opportunity for interested persons to submit data, views, and arguments.

The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 6344 of this title and prior to publication of any reporting requirements under section 6345 of this title.

(d) Information submitted by corporations.

Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 796(e)(1) of Title 15, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title.

(e) Disclosure of trade secrets and commercial or financial information.

The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of Title 5 disclosure of which may cause significant competitive damage; except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) Failure to meet industrial energy efficiency improvement targets.

No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 6344 of this title.

(g) Voluntary reporting programs.

(1) The Administrator shall exempt a corporation from the requirements of section 6345(a) of this title if such corporation is in an industry which has

an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 6343 of this title fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 6344 of this title is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 6345(a) of this title only those corporations which fully participate in such program.

(h) Reporting requirements under other authority.

Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law. (Pub. L. 94–163, title III, § 376, Dec. 22, 1975, 89 Stat. 938.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6345 of this title.

PART D.—OTHER FEDERAL ENERGY CONSERVATION MEASURES

CODIFICATION

This part was, in the original, designated Part E and has been redesignated Part D for purposes of codification.

§ 6361. Federal energy conservation programs.

(a) Establishment and coordination of Federal agency actions.

(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b) Public education programs.

(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) Report to Congress.

The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b) of this section. (Pub. L. 94–163, title III, § 381, Dec. 22, 1975, 89 Stat. 939.)

§ 6362. Energy conservation in policies and practices of Civil Aeronautics Board, Interstate Commerce Commission, Federal Maritime Commission, Federal Power Commission, and Federal Aviation Administration.

(a)(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after December 22, 1975, with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after December 22, 1975, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines has the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after December 22, 1975.

(b) Except as provided in subsection (c) of this section, each of the agencies specified in subsection (a)(1) of this section shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable im-

pact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) of this section shall not apply to any authority exercised under any provision of law designed to protect the public health or safety. (Pub. L. 94–163, title III, § 382, Dec. 22, 1975, 89 Stat. 939.)

§ 6363. Federal actions with respect to recycled oil.

(a) Purpose.

The purposes of this section are—

(1) to encourage the recyling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) Definitions.

As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i) of this section, is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) Test procedures for determining substantial equivalency of recycled oil and new oil.

As soon as practicable after December 22, 1975, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d) Promulgation of rules prescribing test procedures and labeling standards.

(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c) of this section, the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Labeling standards.

Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A) of this section—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A) of this section, and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A) of this section, to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii) of this section; and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) Conformity of acts of Federal officials to Commission rules.

After the effective date of the rules required to be prescribed under subsection (d)(1)(A) of this section, all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need

for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

(Pub. L. 94–163, title III, § 383, Dec. 22, 1975, 89 Stat. 940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6394 of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

PART A.—ENERGY DATA BASE AND ENERGY INFORMATION

§ 6381. Verification examinations.

(a) Authority of Comptroller General.

The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) Request for examination.

The Comptroller General shall conduct verification examinations of any person or company described in subsection (a) of this section, if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) Definitions.

For the purposes of this subchapter—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a) of this section.

(2) The term "energy information" has the same meaning as such term has in section 796(e)(1) of Title 15.

(3) The term "person" has the same meaning as such term has in section 796(e)(2) of Title 15.

(4) The term "vertically integrated petroleum company" means any person which itself, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

(Pub. L. 94–163, title V, § 501, Dec. 22, 1975, 89 Stat. 956.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6299, 6346, 6382 of this title.

§ 6382. Powers and duties of Comptroller General.

(a) Subpenas; discovery and inspection; oaths; search.

For the purpose of carrying out his authority under section 6381 of this title—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) Information in possession of Federal agencies.

The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c) Transmission of examination results to Federal agencies.

(1) Except as provided in subsections (d) and (e) of this section, the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 6381 of this title to the Federal agency to which energy information

which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) Report to Congressional committees.

If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e) Disclosure of geological or geophysical information.

(1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 754(a)(3)(B) and (4) of Title 15.

(f) Reports to Congress.

The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies. (Pub. L. 94–163, title V, § 502, Dec. 22, 1975, 89 Stat. 957.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6384 of this title.

§ 6383. Accounting practices.

(a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after December 22, 1975, and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under the authority of subsection (b)(2) of this section.

(b) In carrying out its responsibilities under subsection (a) of this section, the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a) of this section, and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comments with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) of this section as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,

(B) acquisition,

(C) exploration,

(D) development, and

(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by[1] controlling[1] or under common control with such person.

[1] So in original. Probably should be followed by a comma.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

(Pub. L. 94–163, title V, § 503, Dec. 22, 1975, 89 Stat. 958.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 796.

§ 6384. Enforcement.

(a) Any person who violates any general or special order of the Comptroller General issued under section 6382(a)(1)(B) of this title may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 6382(a)(1)(B) of this title may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) of this section to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof. (Pub. L. 94–163, title V, § 504, Dec. 22, 1975, 89 Stat. 959.)

PART B.—GENERAL PROVISIONS

§ 6391. Prohibited actions: unreasonable classifications, unreasonable differentiations, unreasonably disproportionate share of burdens between segments of business community.

(a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) subchapters I and II of this chapter.

(2) this subchapter.

(3) the Emergency Petroleum Allocation Act of 1973.

(Pub. L. 94–163, title V, § 521, Dec. 22, 1975, 89 Stat. 960.)

REFERENCES IN TEXT

This "subchapter", referred to in subsec. (c)(2), was in the original this "title", meaning title V of the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this subchapter amended section 796 of Title 15, Commerce and Trade.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (c)(3), is classified to section 751 et seq. of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6392. Conflicts of interest.

(a) Filing of written statements covering known financial interests.

Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this chapter; and

(2) has any known financial interests—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such

statement shall be subject to examination, and available for copying, by the public upon request.

(b) Enforcement and monitoring of filing requirements; report to Congress.

The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after December 22, 1975, in accordance with section 553 of Title 5—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemption.

In the rules prescribed in subsection (b) of this section, the Administrator and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Penalty.

Any officer or employee who is subject to, and knowingly violates, subsection (a) of this section shall be fined not more than $2,500 or imprisoned not more than one year, or both. (Pub. L. 94–163, title V, § 522, Dec. 22, 1975, 89 Stat. 961.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (a)(1), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

§ 6393. Administrative procedure and judicial review.

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of Title 5 shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of Title 5 issued under subchapter I of this chapter (other than section 6212 of this title) and subchapter II of this chapter, or this subchapter.

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to subchapter I or II of this chapter or this subchapter shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this chapter as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) of this section or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) of this section applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) of this

section shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. (Pub. L. 94–163, title V, § 523, Dec. 22, 1975, 89 Stat. 962.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (a)(4), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

The Economic Stabilization Act of 1970, referred to in subsec. (b), is Pub. L. 91–379, title II, Aug. 15, 1970, 84 Stat. 799, which is set out in its entirety as a note under section 1904 of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261 to 6263 of this title.

§ 6394. Prohibited acts.

It shall be unlawful for any person—

(1) to violate any provision of subchapter I or subchapter II of this chapter or this subchapter,

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 6363 of this title; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

(Pub. L. 94–163, title V, § 524, Dec. 22, 1975, 89 Stat. 963.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6395. Enforcement.

(a) Whoever violates section 6394 of this title shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 6394 of this title shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this chapter that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 6394 of this title, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 6394 of this title.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this chapter described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this chapter referred to in paragraph (1) are as follows:

(A) Section 6262 of this title (relating to energy conservation plans).

(B) Section 6271 of this title (relating to international oil allocation).

(C) Section 6272 of this title (relating to international voluntary agreements).

(D) Section 6273 of this title (relating to advisory committees).

(E) Section 6274 of this title (relating to international exchange of information).

(F) Section 6391 of this title (relating to prohibition on certain actions).

(Pub. L. 94–163, title V, § 525, Dec. 22, 1975, 89 Stat. 963.)

REFERENCES IN TEXT

This "chapter", referred to in subsecs. (d) and (e), was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

§ 6396. State laws or programs.

No State law or State program in effect on December 22, 1975, or which may become effective thereafter, shall be superseded by any provision of subchapter I or II of this chapter or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order. (Pub. L. 94–163, title V, § 526, Dec. 22, 1975, 89 Stat. 964.)

§ 6397. Transfer of authority upon termination of Federal Energy Administration.

In accordance with section 774(a) of Title 15, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this chapter and amendments made by the Energy Policy and Conservation Act after the termination of the Federal Energy Administration. (Pub. L. 94–163, title V, § 527, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

Reference in the original to "this Act and amendments made thereby" was changed to "this chapter and amendments made by the Energy Policy and Conservation Act" for purposes of codification. For enumeration of sections amended by the Energy Policy and Conservation Act see Short Title note under section 6201 of this title.

§ 6398. Authorization of appropriations.

Any authorization of appropriations in this chapter, or in any amendment to any other law made by

the Energy Policy and Conservation Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted. (Pub. L. 94–163, title V, § 528, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

Reference in the original to "this Act, or in any amendment to any other law made by this Act" was changed to "this chapter, or in any amendment to any other law made by the Energy Policy and Conservation Act" for purposes of codification. For an enumeration of amendments made by the Energy Policy and Conservation Act, see Short Title note under section 6201 of this title.

§ 6399. Intrastate natural gas.

No provision of this chapter shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission. (Pub. L. 94–163, title V, § 529, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

This "chapter", referred to in text, was, in the original, this "Act", meaning the Energy Policy and Conservation Act, Pub. L. 94–163, which in addition to enacting this chapter, made additions and amendments to the Defense Production Act of 1950, the Motor Vehicle Information and Cost Savings Act, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974. See Short Title note under section 6201 of this title.

§ 6400. Limitation on loan guarantees.

Loan guarantees and obligation guarantees under this chapter or any amendment to another law made by the Energy Policy and Conservation Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority. (Pub. L. 94–163, title V, § 530, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

Reference in the original to "this Act or any amendment to another law made by this Act" was changed to "this chapter or any amendment to another law made by the Energy Policy and Conservation Act" for purposes of codification. For an enumeration of amendments to other laws made by the Energy Policy and Conservation Act, see Short Title note, set out under section 6201 of this title.

§ 6401. Expiration of authority.

Except as otherwise provided in subchapter I or subchapter II of this chapter, all authority under any provision of subchapter I or subchapter II of this chapter and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985. (Pub. L. 94–163, title V, § 531, Dec. 22, 1975, 89 Stat. 965.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6263 of this title.

PART C.—CONGRESSIONAL REVIEW

§ 6421. Procedure for Congressional review of Presidential requests to implement certain authorities.

(a) For purposes of this section, the term "energy action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy action numbered _____ transmitted to Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action. (Pub. L. 94–163, title V, § 551, Dec. 22, 1975, 89 Stat. 965.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6234, 6239, 6261 of this title; title 15 sections 757, 760a, 760b, 2002.

§ 6422. Expedited procedure for Congressional consideration of certain authorities.

(a) Any contingency plan transmitted to the Congress pursuant to section 6261(a)(1) of this title shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 6261(a)(2) of this title unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2) of this section.

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable

only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the _____ approves the contingency plan numbered _____ submitted to the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the notion[1] shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate. (Pub. L. 94–163, title V, § 552, Dec. 22, 1975, 89 Stat. 967.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6261 of this title.

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[1] So in original. Should be "motion".